

THE
TR Y A L S,
 Convictions & Sentence
 O F
TITUS OTES,
 UPON TWO
INDICTMENTS
 For Willful, Malicious, and Corrupt
P E R J U R Y:
 AT THE
KINGSBENCH-BARR at *Westminster,*
 Before the Right Honourable
George Lord Jeffreys,
 Baron of *Wem,* Lord Chief Justice of His Majesties Court of *Kings-*
Bench, and the rest of the Judges of that Court.
 Upon *Friday* the 8th. and *Saturday* the 9th. days of *May,*
Anno Domini, 1685.
 And in the First Year of the Reign of our Sovereign Lord
King JAMES the II. &c.

L O N D O N,
 Printed for R. Sare at *Grays-Inn-Gate* in *Holborn,* and are to
 be sold by *Randal Taylor,* 1685.

THE
TITLES
IN
THE
KINGDOM
OF GREAT BRITAIN
AND IRELAND
BY
JAMES
THE SECOND
AND SEVENTH
BY
THE
KING
OF GREAT BRITAIN
AND IRELAND
IN
THE
FIFTH YEAR
OF HIS MAJESTY'S
REIGN
1687

LONDON
Printed for R. Stue in Great-Britain in H. and sold by R. Stue in Great-Britain in H. 1687

Die veneris oct Maii 1685. in Banco Regis.

De Term. Pasch. Anni Regni Regis Jacobi primi.

Dominus Rex versus Titus Oates.

THis day being appointed for the Tryal of one of the Causes between our Sovereign Lord the King, and Titus Oates for Perjury; the same began between eight and nine in the Morning; and proceeded in the manner following.

First Proclamation was made for Silence, then the Defendant was called, who appeared in Person, being brought up by Rule from the King's Bench Prison, where we was in Custody, and was advised to look to his Challenges to the Jury that were Impanel'd to try the Cause.

Oates. My Lord, I am to manage my own Defence, and have a great many Papers and things which I have brought in order to it, I pray I may have some Conveniencey for the Managing my own Tryal.

Lord C. Justice. Ay, Ay, let him sit down there, within the Bar, and let him have Conveniencey for his Papers.

Clerk Crown. Cryer, swear Sir William Dodson.

Oates. My Lord, I except against Sir William Dodson.

Mr. Att. Gen. What is the Cause of Exception, Mr. Oates?

L. C. J. Why do you challenge him?

Oates. My Lord, I humbly conceive in these cases of Criminal Matters, the Defendant has Liberty of excepting against any of the Jurors, without shewing Cause, provided there be a full Jury besides.

L. C. J. No, no, that is not so, you are mistaken in that Mr. Oates.

Oates. My Lord, I am advised so, I do not understand the Law myself.

L. C. J. But we tell you then, it cannot be allow'd; if Mr. Attorney will consent to wave him, well and good.

Mr. Att. Gen. No, my Lord, I know no reason for it, I cannot consent to any such thing.

L. C. J. Then, if you will not have him sworn, you must shew your Cause presently.

Oates. My Lord, I cannot assign any Cause.

L. C. J. Then he must be sworn. Cl. Cr. Swear him.

Cryer. Sir William Dodson take the Book, you shall well and truly try this Issue between our Sovereign Lord the King, and Titus Oates, and a true Verdict give according to the Evidences, to help you God.

Cl. Cr. Swear Sir Edmund Wiseman, (which was done.)

Richard Alley Esq; (who was sworn.)

Benjamin Scutt.

Oates. My Lord, I challenge him.

L. C. J. For what Cause.

Oates. My Lord, he was one of the Grand Jury that found the Bill.

L. C. J. Was he so, that is an exception indeed; what say you Mr. Attorney?

Att. Gen. My Lord, I believe he was upon one of the Indictments, but I think, it was not this.

L. C. J. But if he were in either of them, he cannot be so impartial.

Mr. Att. Gen. My Lord, we will not stand upon it, we'll wave him.

Cl. Cl. Thomas Fowlis.

Pray let me see that Gentleman (who was shown to him.) Are you not a Goldsmith in Fleetstreet, between the two Temples?

Fowlis. Yes, I am.

A

Oates

Oates. Very well, Sir I do not except against you, only I desire to know, whether it were you or not.

Cl. Gr. Swear him, (which was done.)

Thomas Blackmore,

Peter Pickering,

Robert Beddingfield,

Thomas Rawlinson,

Roger Reeves,

Edward Kempe, } Sworn.

Oates. My Lord, I challenge him.

L. C. J. You speak too late, he is sworn already.

Oates. My Lord, they are so quick, I could not speak, but he was one of the Grand Jury too.

L. C. J. We cannot help it now.

Mr. Att. Gen. I did know that he was so, but to shew that we mean nothing but fair, we are content to waive him.

L. C. J. You do very well Mr. Attorney General; let him be withdrawn.

Cl. Gr. Mr. Kempe, you may take your ease; I swear Ambrose Isted, (which was done.)

Henry Collier,

Richard Howard, } Sworn.

Cl. Cr. Cryer, count these.

Cryer. One, &c. Sir William Dodson.

Cl. Cr. Richard Howard.

Cryer. Twelve good men and true, hearken to the Record, and stand together, and hear the Evidence.

The Names of the Twelve, sworn, were these.

Sir William Dodson,

Sir Edmund Wiseman,

Richard Ale,

Thomas Fowles,

Thomas Blackmore,

Peter Pickering.

Robert Beddingfield,

Thomas Rawlinson,

Roger Reeves,

Ambrose Isted,

Henry Collier and

Richard Howard.

Oates. Before the Council opens the Cause, I desire to move one thing to your Lordship.

L. C. J. What is it you would have?

Oates. My Lord, I have three Witnesses that are very material one's to my Defence, who are now Prisoners in the King's Bench, for whom I moved yesterday, that I might have a Rule of Court to bring them up to day; but it was objected, that they were in Execution, and so not to be brought; I humbly move your Lordship now, that I may have a Habeas Corpus for them, to bring them immediately hither.

L. C. J. We cannot do it.

Oates. Pray, Good my Lord, they are very material Witnesses for me, and I mov'd yesterday for them.

L. C. J. You did so, but we told your Council then, and so we tell you now, we cannot do it by Law, it will be an escape.

Oates. My Lord, I shall want their Testimony.

L. C. J. Truly we cannot help it, the Law will not allow it, and you must be satisfied.

Cl. Gr. Gentlemen, you that are sworn of this Jury, hearken to the Record, by Virtue of an Inquisition taken at Justice Hall in the Old Bayly, in the Parish of St. Sepulcher, in the Ward of Faringdon without, London, upon Wednesday the 10th. of December, in the 36th. of the Raign of our late Sovereign Lord Charles the II. by the grace of God, of England, Scotland, France and Ireland King, Defender of the Faith, &c. Before Sir James Smith Knight, Mayor of the City of London; Sir George Jefferies Knight and Baronet, Lord Chief Justice of this Honourable Court; Sir Thomas Jones Knight, Lord Chief Justice of the Court of Common Pleas; William Montague Lord Chief Baron of the Exchequer; Sir James Edmonds Knight; Sir John More Knight, Aldermen of the said City; Sir Thomas Jenner Knight, one of his Majesties Sergeants at Law, and Recorder of the same City, and others, their Companions, Justices of Oyer and Terminer, by the Oaths of twelve Jurors, Honest and Lawful Men of the City of London aforesaid, who then and there being sworn and charged to enquire for our said Lord

Lord the King, and the Body of the City aforesaid, upon their Oaths present, that at the Session of our Sovereign Lord the King, holden for the County of *Middlesex*, at *Hicks Hall*, in *St. John's Street*, in the County aforesaid, on *Munday*, to wit, 16 *Decem.* in the year of the Reign of our late Sovereign Lord, *Charles the Second*, of *England, Scotland, France and Ireland King*, Defender of the Faith, &c. the thirtieth before *Sir Reginald Forster* Baronet, *Sir Philip Matthews* Baronet, *Sir William Bowls* Knight, *Sir Charles Pitfield* Knight, *Thomas Robinson*, *Humphrey Wyrley*, *Thomas Hurcott*, and *William Hempson* Esquires, Justices of the said Sovereign Lord the King, to enquire by the Oath of *Honest and Lawful Men* of the County of *Middlesex* aforesaid, and by other Ways, manners, means, by which they might better know, as well within Liberties as without, by whom the Truth of the matter may be better known and enquired, of whatsoever Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Clippings, washings and false makings of the Money of this Kingdom of *England*, and of other Kingdoms and Dominions whatsoever; and of whatsoever Murders, Felonies, Man-slaughters, Killings, Burglaries, and other Articles and Offences in the Letters Patents of our said Sovereign Lord the King, to them, or any four, or more of them therefore directed, specified, as also the Accessaries of the same within the County aforesaid, as well within Liberties as without, by whomsoever, howsoever had, made, done or committed; and the said Treasons, and other the Premises to hear and determine, according to the Law and Custom of this Kingdom of *England*, being assigned by the Oath of *Ralph Wain*, *John Vaughan*, *Richard Foster*, *Thomas Paget*, *Robert Newington*, *Henry Tompkins*, *Robert Hays*, *John Greenwood*, *Peter Stimpson*, *Josias Grosley*, *Richard Richman*, *Augustine Bear*, *John King*, *Nathaniel Brett*, *Francis Fisher*, and *Samuel Linn*, *Honest and Lawful Men* of the County aforesaid, sworn, and charged to enquire for our said Sovereign Lord the King, and the Body of the County aforesaid, upon their Oaths. It was presented, that *Thomas White*, otherwise *Whitebread*, late of the Parish of *St. Giles* in the Fields, in the County of *Middlesex* Clerk; *William Ireland* late of the Parish aforesaid, in the County aforesaid Clerk; *John Fenwick*, late of the Parish aforesaid, in the County aforesaid, Clerk; *Thomas Pickering* of the Parish aforesaid, in the County aforesaid, Clerk; *John Grove* of the Parish aforesaid, in the County aforesaid, Gent. as false Traitors against the most Illustrious, Serene, and most excellent Prince, our said late Sovereign Lord *Charles the Second*, by the Grace of God, of *England, Scotland, France and Ireland King*, Defender of the Faith, &c. Their Supreme and Natural Lord, not having the Fear of God in their Hearts, nor weighing the Duty of their Allegiance, but being moved and seduced by the Instigation of the Devil: The Cordial Love, and True and Natural Obedience, which faithful Subjects of our said Sovereign Lord the King towards him, should, and of right ought to bear, utterly withdrawing, and contriving, and with all their Might intending the Peace and Tranquility of this Kingdom of *England* to disturb, and the true Worship of God within this Kingdom of *England* used, and by Law established, to subvert, and Rebellion within this Kingdom of *England* to move, stir up, and procure, and the Cordial Love, and true and due Obedience, which Faithful Subjects of our said Lord the King, towards him, the said Sovereign Lord the King, should, and of right ought to bear, utterly to withdraw, put out, and extinguish, and our said Sovereign Lord the King, to Death and final Destruction to bring and put, the four and twentieth day of *April*, in the year of the Reign of our late Sovereign Lord *Charles the Second*, by the Grace of God, of *England, Scotland, France and Ireland King*, Defender of the Faith, &c. the thirtieth, at the Parish of *St. Giles* in the Fields, in the County aforesaid, falsely, maliciously, subtilly, advisedly, and trayterously did purpose, compass, Imagine and Intend, Sedition and Rebellion within this Kingdom of *England* to move, stir up and procure, and a miserable Slaughter among the Subjects of our said Lord the King to procure and cause, and our said late Lord the King from the Regal State, Title, Power and Government of his Kingdom of *England* utterly to deprive, depose, cast down, and disinherit, and him our said late Sovereign Lord the King to Death, and final Destruction to bring and put, and the Government of the said Kingdom, and the sincere Religion of God, rightly by the Laws of the said Kingdom established, at their Will and Pleasure to change and alter, and the State of this whole Kingdom of *England*, throughout all its parts, well instituted and ordain'd, wholly to subvert and destroy, and war against our said late Sovereign Lord the King, within this Kingdom of *England* to levy, and those their most wicked Treasons, and Traiterous Imaginations and Purposes aforesaid to fullfil and perfect, They

They the aforesaid *Thomas White*, alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, other false Traytors to the Jurors not known, the said four and twentieth day of *April*, in the year of the Reign of our said late Sovereign Lord the King, the Thirtieth, with Force and Arms &c. at the Parish of *St. Giles* in the Fields, in the County of *Middlesex* aforesaid, falsely, maliciously, subtilly, advisedly, Devilishly, and Traiterously did assemble themselves, unite and meet together, and then and there falsely, maliciously, subtilly, advisedly, devilishly, and Trayterously, did consult and agree our said late Sovereign Lord the King to Death, and final Destruction to bring and put, and the Religion within this Kingdom of *England*, rightly, and by the Laws of the same Kingdom established, to the Suppression of the *Romish* Church, to change and alter, and the sooner to fulfil and perfect their said most wicked Treasons, and Traiterous Imaginations, and purposes, they, the said *Thomas White*, alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, and other false Traytors of our said late Sovereign Lord the King, to the Jurors unknown, afterwards, to wit, the same 24th. day of *April*, in the said 30th. year of our said late Sovereign Lord the King, at the said aforesaid Parish of *St. Giles* in the Fields, in the County aforesaid, falsely, subtilly, advisedly, devilishly, and Trayterously among themselves, did conclude and agree, that they the aforesaid *Thomas Pickering*, *John Grove*, him, the said late Sovereign Lord the King should kill and murder, and that they the said *Thomas White*, alias *Whitebread*, *William Ireland*, *John Fenwick* and other false Traytors to the Jurors unknown: A certain number of Masses between them, then and there, agreed for the Health of the Soul of him the said *Thomas Pickering*, therefore should say, Celebrate and perform, and therefore should pay unto the said *John Grove* a certain Sum of Money between them, then and there agreed; and the Jurors aforesaid, upon their Oath aforesaid, did further present, that the said *Thomas Pickering* and *John Grove*, upon the agreement aforesaid; then and there, falsely, subtilly, advisedly, maliciously, devilishly and Trayterously did take upon them, and did promise to the said *Thomas White*, alias *Whitebread*, *William Ireland*, *John Fenwick*, and other false Traytors of our said late Sovereign Lord the King to the Jurors aforesaid unknown, then and there, falsely, subtilly, advisedly, maliciously, devilishly and Trayterously, did promise that they the said *Thomas Pickering* and *John Grove* would kill and murder our said late Sovereign Lord the King, and they, the said *Thomas White*, alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, *John Grove*, and other false Traytors of our said late Sovereign Lord the King afterwards, to wit, the said four and twentieth day of *April*, in the thirtieth year aforesaid, at the said aforesaid Parish of *St. Giles* in the Fields, in the County of *Middlesex* aforesaid, subtilly, advisedly, maliciously, devilishly, and Trayterously, did severally every one of them give their Faith each to the other, and upon the Sacrament then and there trayterously did swear and promise, to conceal, and not to divulge their said most wicked Treasons, and Trayterous Compassings, Consultations and Purposes so between them had, him, our said late Sovereign Lord the King, Trayterously to kill and murder, and the *Romish* Religion in this Kingdom of *England* to be used, to introduce, and the true Reformed Religion in this Kingdom of *England* rightly, and by the Laws of the same Kingdom established, to alter and change; and that the said aforesaid *Thomas Pickering*, and *John Grove*, in Execution of their Traiterous Agreement aforesaid afterwards, to wit, the same Four and Twentieth day of *April*, in the Thirtieth year aforesaid; and divers other days and times after, at the said aforesaid Parish of *St. Giles* in the Fields, in the County aforesaid, Muskets, Pistols, Swords, Daggers, and other offensive and cruel Weapons, him, the our said late Sovereign Lord the King to kill and murder, falsely, subtilly, advisedly, maliciously, and Trayterously did prepare, and obtain for themselves, had and kept, and that they the aforesaid *Thomas Pickering* and *John Grove* afterwards, to wit, the said Four and Twentieth Day of *April*, in the Thirtieth year aforesaid, and divers days and times afterwards, with Force and Arms &c. at the Parish aforesaid, in the County aforesaid, and in other places within the County of *Middlesex* aforesaid, falsely, subtilly, advisedly, maliciously, devilishly and Trayterously did lie in wait, and endeavour our said late Sovereign Lord the King to murder, and that the said *Thomas White*, alias *Whitebread*, *William Ireland*, *John Fenwick*, and other false Traitors to the Jurors unknown, afterwards, to wit, the same Four and Twentieth day of *April*, in the Thirtieth year aforesaid, at the Parish aforesaid, in the County of *Middlesex* aforesaid, falsely, subtilly, advisedly, maliciously, devilishly and Trayterously did prepare, perswade, excite, abett, comfort and counsel Four other Persons, Men to the Jurors unknown, and Sub-
jects

acts of our said late Sovereign Lord the King, him our said late Sovereign Lord the King Trayterously to kill and murder against the Duty of their Allegiance, against the Peace of our said late Sovereign Lord the King, his Crown and Dignity, and against the Form of the Statute in that Case made and provided, and thereupon it was so far proceeded, that afterwards, to wit, at the Court of Goal-delivery of our Sovereign Lord the King, of *Newgate*, at Justice Hall in the *Old Baily*, in the Suburbs of the City of *London*, in the Parish of *St. Sepulchre*, in the Ward of *Farington* without, *London* aforesaid, the seventeenth day of *December*, in the Thirtieth year aforesaid, before the Justices of our said Lord the King, then and there being present, held by adjournment for the County of *Middlesex* aforesaid, before whom the Indictment aforesaid was then depending, came the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove* under the Custody of Sir *Richard Ham* Knight, Sir *John Chapman* Knight, Sheriffs of the County of *Middlesex* aforesaid, unto whose Custody, for the Cause aforesaid before that were committed, being there brought to the Bar in their proper Persons, and immediately being severally spoken unto concerning the Premises above charged upon them, how they would acquit themselves thereof, the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove* did say that they were not thereof guilty, and for the same, for good and bad, they severally put themselves upon the Country, and by a certain Jury of the Country on that behalf, in due manner Impanel'd, sworn and charged, then and there, in the same Court before the Justices of Goal-delivery aforesaid were try'd; and that upon that Tryal between our said late Sovereign Lord the King, and the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove* at *London* aforesaid, to wit, at Justice Hall in the *Old Baily* aforesaid, in the Parish and Ward aforesaid, the Defendant *Titus Oates*, by the name of *Titus Oates*, late of the Parish of *St. Sepulchre* aforesaid, in the Ward aforesaid, Clerk, was a Witness produced on the Behalf of our late Sovereign Lord the King upon the Tryal aforesaid, and before the aforesaid Justices of Goal-delivery in the Court aforesaid, then and there held, upon the Holy Evangelists of God, to speak and testify the Truth, the whole Truth, and nothing but the Truth, of, and in the Premises between our said late Sovereign Lord the King, and the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove*, put in Issue, was duly sworn, and that he, the aforesaid *Titus Oates*, then and there, in the Court of Goal-delivery aforesaid, upon his Oath aforesaid, upon the Indictment aforesaid, at the Parish and Ward aforesaid, by his own proper act and consent, of his most wicked Mind, falsely, voluntarily, and corruptly did say, depose, swear, and to the jurors of the Jury aforesaid, then and there sworn, and Impanel'd to try the Issue aforesaid, between our said late Sovereign Lord the King, and the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove*, did give in Evidence, that there was a Trayterous Consult of Jesuits that were assembled at a certain Tavern, called the *White Horse Tavern* in the *Strand*, (in the *White Horse Tavern* in the *Strand*, in the County of *Midd.* aforesaid, meaning) upon the Four and Twentieth day of *April*, in the Year of our Lord 1678. At which Consult, *Whitebread*, *Fenwick*, *Ireland*, (the aforesaid *Thomas White*, alias *Whitebread*, *John Fenwick*, and *William Ireland*, meaning) and he the said *Titus Oates*, were present, and that the Jesuits aforesaid did separate themselves into several lesser Companies, and that the Jesuits aforesaid came to a resolution to murder the said our late Lord the King, and that he, the said *Titus Oates* did carry the Resolution aforesaid from Chamber to Chamber, and did see that Resolution signed by them (the aforesaid Jesuits meaning) whereas in truth and in deed, the aforesaid *Titus Oates* was not present at any Consult of the Jesuits at the *White Horse Tavern* aforesaid, in the *Strand*, in the County of *Middlesex* aforesaid, upon the 24th of *April*, in the Year of our Lord 1678. nor did carry any Resolution to murder our said late Lord the King, from Chamber to Chamber by any Persons to be signed; and so he the aforesaid *Titus Oates*, on the 17th. day of *December*. in the Thirtieth Year aforesaid, at the Justice Hall aforesaid, in the Court aforesaid, upon the Tryal aforesaid, upon the Indictment aforesaid, between our said late Lord the King, and the aforesaid *William Ireland*, *Thomas Pickering*, and *John Grove*, so as aforesaid, had by his own proper act and Consent, and of his most wicked Mind, falsely, voluntarily, and corruptly in manner and form aforesaid, did commit voluntary and corrupt Perjury, to the great Displeasure of Almighty God, in manifest contempt of the Laws of this Kingdom of *England*, to the Evil and Pernicious Example of all others in like case offending, and against the Peace of our said late Sovereign Lord the King, his Crown and Dignity. Upon this Indictment he has been Arraign'd, and thereunto hath pleaded not Guilty, and for his Tryal hath put himself upon the Country,

and His Majesty's Attorney General likewise, which Country are you, your Charge is to enquire whether the Defendant be guilty of this Perjury and Offence whereof he is now indicted, or whether not guilty: If you find him Guilty, you are to say so, if you find him not guilty you are to say so, and no more, and hear your Evidence. *Crier*, make Proclamation.

Oates. Hold Sir, I beg one Favour of your Lordship, to give me leave to have that part of the Record, wherein I am said to have sworn such and such things, read distinctly in Latine.

L. C. J. Let it be read in Latin: *Cl. Cr. Jurati & jur' jurat' predict' ad tunc et ibidem jurat' et impanelat' ad triend' exitum predict' inter alia Dn' um nostrum Regem et p'efat' Will' m'Ireland, Thomam Pickering, et Johannem Grove in Evidentiis dedit, quod fuit proditoria Consultatio, Anglica, Consult' Jesuit' qui Assemblat' fuer' apud quandam Tabernam, vocat' the White Horse Tavern in le Strand. (Le White Horse Tavern in le Strand in Com' Mid' predict' innuendo) super vicecesimum quartum diem April' Anno Dom. millesimo sexcentesimo, septuagesimo octavo, ad quam quidem Consultationem, Whitebread, Fenwick, Ireland predict' Thomam White, alius Whitebread, Johannem Fenwick, et William Ireland innuendo, et p'efat' Titus Oates fuer' p'fens' et quod Jesuita predict' sese separaver' in sepeales minores Conventus quodqz Jesuita predict' venerunt ad Resolutionem ad murdrand' dictum Dn' um Regem et quod ipse idem Titus Oates portavit Resolutionem predict' a Camera ad Camera, et videbat Resolutionem, illam signat' per ipsos (p'efat' Jesuitas innuendo.) That is the Perjury that you are said to have sworn.*

Oates. Pray go on Sir, *Ubi revera*—

Cl. Cr. Ubi revera et in predict' Titus Oates non p'fens' fuit ad aliquam Consultationem Jesuit' apud le White Horse Tavern predict' in le Strand, in Com' Mid' predict' super vicecesimum quartum diem Aprilis Anno Domini millesimo sexcentesimo septuagesimo octavo, nec portavit aliquam Resolutionem ad d'um d'um Regem murdrand' a Camera ad Camera per aliquas Personas signand' quidem

Mr. Just. Willems. Now you have read it, go on Sir to make your Proclamation.

Cl. Cr. Crier, make an Ho-yes.

Crier. Ho-yes, If any one can inform our Sovereign Lord the King, the Kings Sergeant, the Kings Attorney General, or this inquest now taken concerning the Perjury and Offence, whereof the Defendant *Titus Oates* stands Indicted; let them come forth, and they shall be heard, for now he stands upon his Discharge.

Mr. Phipps. May it please your Lordship, and you Gentlemen of the Jury—

Oates. My Lord, I desire your Lordship and the Court would be of Council for me in one thing, which I take to be a Fault and Error in my Indictment.

L. C. J. Look you *Mr. Oates*, whatever you have to say of that nature, you must not speak to it now, you will have your time as to that hereafter, in case you be Convicted.

Oates. My Lord, I have but one small exception to open to you.

L. C. J. We are now upon the Fact only.

Oates. My Lord, I beg you would give me leave only to tell you of a mistake in the Indictment, which I hope, when I have opened, will satisfie your Lordship, that it ought not to be put upon me or the Court to try this Cause; or to be sure, if there should be a Conviction, I hope I may move an Arrest of the Judgement.

L. C. J. So I tell you you may, but not now.

Oates. Good my Lord, hear me but a few Words, the Indictment charges me to have given such and such Evidence, that there was such a Consult of the Jesuites at the *White Horse Tavern* in the *Strand*, the 24th. of *April* 1678. that the Jesuites did afterwards divide themselves in several lesser Companies, that they came there to a resolution to murder the late King, and that I swore that I carryed that Resolution from Chamber to Chamber, and saw the Resolution signed by them, so the Word is, *Signat'*, now the Perjury assigned is, that I was not present at that Consult, nor did carry the Resolution from Chamber to Chamber to be signed, and there the word is, *Signand'*; now I conceive if *Signat'* be the word, that is used in setting forth the Oath that I made, The Assignment of the Perjury ought to follow that form, and the Word there ought to be *Signat'* too, being *Signand'*, I take that to be an Error.

L. C. J. Look, that is not proper at this time; as I told you at first, but withal I do not think there is any great matter in what you say.

Mr. Att. Gen. Either I do not understand *Mr. Oates*, what he means by the Objection, or he will find himself much mistaken in it.

L. C. J.

L. C. J. Well, well, we have nothing to do with that now, go on with the Cause, Mr. *Phipps*, May it please your Lordship, and you Gentlemen of the Jury, this is an Indictment against *Titus Oates* for Perjury; which Indictment sets forth, that *Thomas White*, alias *Whitebread*, *William Ireland*, *John Fennick*, *Thomas Pickering* and *John Grove*, the Sixteenth of Decr. in the Thirtieth year of the late King, at the Old Bailey, were indicted of High Treason for conspiring the Death of the King, and that *Ireland*, *Pickering*, and *Grove* were tried the 17th. of Decemb. in that year, and upon that Indictment *Titus Oates* was produced as a Witness on the behalf of the King against the said *Ireland*, *Pickering* and *Grove*, being sworn to give Evidence to the Jury that were Impanelled and sworn to try that Cause; he did swear and give in evidence, that there was a Treasonable Consult of the Jesuites at the *White Horse Tavern* in the Strand, meaning the *White Horse Tavern* in the Strand, in the County of *Middlesex*, the 24th. of April 1678, at which Consult, *Whitebread*, *Fennick*, and *Ireland*, and the said *Titus Oates* were present, and that they separated themselves into several lesser Clubs, and came to a resolution to murder the King, and that he, the said *Titus Oates* carried the said Resolution from Chamber to Chamber, to be signed by them, meaning the Jesuites; whereas in Truth and in Fact, he, the said *Titus Oates* was not present at any such Consult, the Four and Twentieth of April 1678, nor carried any such Resolution from Chamber to Chamber to be signed, and he the said *Titus Oates*, the Seventeenth day of December, in the Thirtieth year aforesaid, at the Old Bailey aforesaid, upon the Tryal aforesaid, on the Indictment aforesaid, between the King, and the said *Ireland*, *Pickering* and *Grove*; so as aforesaid had by his own proper Act and Consent of his most wicked Mind falsely, voluntarily and corruptly in manner and form aforesaid, did commit Wilful and Corrupt Perjury, and this is laid to be to the Dishonour of God, in contempt of the Law, to the Evil Example of others in the like case offending against the Kings Peace, Crown and Dignity; to this he has pleaded not Guilty, and that is the Issue that you are to try; if we prove him Guilty, we question not but you will find him so.

Mr. *Att. Gen.* May it please your Lordship, and you Gentlemen that are sworn, I am of Council in this Cause for the King, and our Case stands thus; the Defendant stands indicted for corrupt and wilful Perjury, for what he swore at the Tryal of *Ireland*, and that which he swore was this, in order to convict the Prisoner then at the Bar of the High Treason they were accused of; *Oates* did swear, that upon the 24th. of April 1678, there was a consult of Jesuites held at the *White Horse Tavern* in the Strand, where *Ireland* and several other Jesuites were present, and their business was to consult how they might murder and destroy the King, and subvert the Government; and there they came to a Resolution that *Pickering* and *Groves* should kill the King; and he was present at the debate, and he carried the Resolution from Chamber to Chamber, where they had separated themselves in lesser Numbers; and there he saw the Resolution signed; and this is the matter that he swore, upon which this Indictment is founded. And Gentlemen, we do charge that this was a false Oath, and in a point expressly to the matter then in controversy before that Court; for we shall prove he was beyond Sea at that time, and on that day, and in order to his Conviction we shall make out by clear Evidence to you as full and plain as ever was given, that from Christmas before, which was in December 1677. till Midsummer after, which was the latter end of June 1678. *Oates* that swears this Consult in April, was at *St. Omers*, and in all that time was not absent from the Colledge there above 24 Hours, and that but once only, which was in January when he played Truant, and went to *Watton*, which is about two Miles from *St. Omers*, but otherwise he was all along in the Colledge. And my Lord, that we may give such a satisfactory Evidence as may make it undeniably plain to the Jury, I desire your Lordship, and you Gentlemen of the Jury would please to observe some particular Periods of time, that I shall open for the better clearing our Evidence Methodically; and the first Period of time is from Mr. *Hilsey's* leaving *St. Omers*; now he left *St. Omers* the fourteenth of April Old stile, which is the 24th. of April New stile, and then when he came away, he left *Oates* there at *St. Omers*; Mr. *Hilsey*, when he came into England, in Kent in his Journey to London, meets one Mr. *Burnaby*; this was I say in Mr. *Hilsey's* Return to England from *St. Omers*, which he left ten days before the time assigned by *Oates* for this Consult, at the *White Horse Tavern* in the Strand, and the next Period is, Mr. *Burnaby* was going to *St. Omers*, and there he arrives in time the 21. of April, old stile, and there he finds Mr. *Oates*, who swore he was then in London; and by the evidence you will hear that Mr. *Oates*, according to his usual custome, and according to that

that Virtue he is endowed with, very boldly insinuates himself into this Gentlemans Company, as he uses to do with all new Comers; and you will hear from Mr. Burnaby himself, and many others, that from the time of his coming to St. Omers, which was the 21. of April, he conversed with Mr. Oates several days, every day till after the 24th of April old stile at St. Omers. Then my Lord, another Period of time that I would desire you to observe is, from Mr. Pool's coming from St. Omers, which was in time the 25th. of April old stile, the very day after the day that this Consult was sworn to be on, and when he came from St. Omers, you will hear from many Witnesses that he left Oates there, and there he stayed. For my Lord, we shall, besides these particular Times of these Gentlemens coming over, who left him there, prove the very day when he left St. Omers, and that was the end of Midsummer-day following, which was the 23d. of June; then was the time when Oates came first from St. Omers to England, and we shall prove he took his leave of them then. My Lord, we have many other Circumstances that will unanswerably strengthen this Evidence, and show that our Witnesses testify nothing but the Truth; one particularly is this; this Gentleman being a Novice of the House, was Reader in the Sodality, as they call it, we shall prove that for every Sunday and Holy-Day throughout all April and May, he did officiate in that place, and did read to the Society according as the Custom there is; and we shall prove another particular thing, that upon this 24th. of April, he was in the Colledge, by a particular circumstance, and that by several Witnesses, so that Gentlemen, not to detain you with any long opening of the matter, if we prove this that I have opened, as we shall with a Cloud of Witnesses, it will make an end of the Question. We shall first, call our Witnesses to prove that he swore at that Tryal, that such a Consult was, and he was at it, and then if we prove that he was at another place beyond Sea, at such distance that it is impossible for him to be here; I do not doubt but the Court and the Jury will conclude he hath willfully and corruptly forswore himself; the said effects of which we are all witnesses of; it was to take away the Lives of his fellow Subjects wrongfully; and it will appear to the World he has been one of the greatest Impostors that ever did appear upon the Stage, either in this Kingdom, or in any other Nation.

Mr. Solicitor Gen. We will now go on with our Evidence, and prove all the parts of the Indictment, and first produce the Record of the Tryal of Ireland, and then by Witnesses *Viva voce* that were present at that Tryal, we shall prove what he swore, and then prove that Oath of his to be false; swear Mr. Swift (which was done) where is the Record of Ireland's Tryal?

Mr. Swift. Here it is my Lord.

Mr. Recorder. Is that a true Copy Sir.

Mr. Swift. Yes, I examined this from the Record, it is a true Copy.

L. C. J. Read it.

Mr. Att. Gen. If Dr. Oates does desire, the whole may be read; let it be so, otherwise a Word of it may serve, it being only an Inducement.

Oates. Yes, I desire it may be all read.

L. C. J. It must be read, if he will have it.

Mr. Att. Gen. Well I submit it, I did only offer it, to save the time of the Court.

Oates. I would save the time of the Court too, all that I can; but I think it may be material for me to have the whole read.

L. C. J. In God's name let it be read, we will not hinder you in any thing that may be for your defence.

Cl. Cr. *Memorandum quod*—

Mr. Att. Gen. Now this long Record in Latine is read, I would fain know whether it be to any great purpose, but only to spend time.

L. C. J. Nay, I think it has not been very edifying to a great many, do you think Mr. Oates, that the Jury, who are Judges of this Fact, do understand it.

Oates. I cannot tell, may be they may, my Lord.

Mr. Jus. Withens. Do you understand it your self Mr. Oates.

Oates. That's not any Question here; but to oblige the Court and the Jury, I desire it may be read in English too.

L. C. J. No, the Court understands it well enough, and they can tell the Jury what it is, it is only the Copy of a Record to prove that Ireland was tryed for High Treason at the Old Bailey, the 17th. of Dec. 1678,

Mr. Soll. Gen. Now my Lord, we will call our Witnesses to swear what Oates did at that Tryal swear: Pray swear Mr. Foster, (which was done.)

Mr. Att.

Mr. Att. Gen. Pray Mr. Foster, will you acquaint the Court and the Jury, whether Dr. Oates was produced as a Witness at Ireland's Tryal, and what he did there depose about a Consult in April 78.

Mr. Foster. My Lord, I was so unhappy as to be one of that Jury, by whom Mr. Ireland, Mr. Pickering and Mr. Groves were tried.

Jury Men. My Lord, we desire that Mr. Foster would lift up his Voice, for we cannot hear him.

Mr. Foster. Truly my Lord, I have been very sick of late, and am not now very well, and therefore cannot speak louder than I do.

L. C. J. Go nearer the Jury, and speak as loud as you can.

Mr. Foster. My Lord, I say, I did see Mr. Oates produced as an Evidence at the Sessions in the Old Bayly, where I was so unhappy as to be a Jury Man, when Mr. Pickering, Mr. Ireland, Mr. Grove and Mr. Whitebread were tried.

Mr. Att. Gen. When was that.

Mr. Foster. It was in December 78.

Mr. Att. Gen. And what did Oates then swear.

Mr. Foster. I did see Mr. Oates sworn as an Evidence there, in behalf of the King, against the Prisoners; and he did then swear, that there was a meeting of several Jesuites at the White Horse Tavern in the Strand, upon the 24th. of April 78. and that Mr. Whitebread, Mr. Ireland and Mr. Fenwick were present at the Meeting, and there they did consult the Death of the King, and the altering of the Religion; and some went away and others came; at last they reduced themselves into several smaller Companies or Clubs, and they came to a resolution, that Pickering and Grove should go on to assassinate the King, for which the one was to have 1500 Pound, and the other 30000 Masses, and that this Resolution was drawn up by one Mico, (if I am not mistaken in his name) I have it in my Notes I then took of the Evidence; and he swore further, that he himself went with this Resolution to several of their Chambers, he went to Whitebread's Chamber, and saw Whitebread sign it, he went to Fenwick's Chamber, and saw Fenwick sign it, and went to Ireland's Chamber, and saw Ireland sign it, and this was upon the 24th of April 78. My Lord I am positive in this, for I had the good hap to take the Notes at the Tryal, for my own help, being a Jury-Man, and I never look't upon those Notes afterwards, till the printed Tryal came out, and then I compared my Notes with the Print, and found them to agree, and I have kept them ever since by me, and this is all under my own hand as I have testified.

Oates. My Lord, may I ask this Gentleman a Question.

L. C. J. Ay, if the Kings Council have done with him.

Mr. Att. Gen. Yes, my Lord, we have done with him.

Mr. Foster. Pray my Lord, give me leave to sit down, for I am not able to stand.

Oates. My Lord, I desire you to ask that Gentleman, whether in the Oath that I took, I call'd it a Consult, or I call'd it a Traiterous Consult.

Mr. Foster. Truly I think you call'd it both, if I am not mistaken, but if your Lordship please, I will look upon my Notes.

L. C. J. You may look upon your Notes to refresh your Memory, if you will.

Mr. Just. Withens. Truly I think if it were a Consult to murder the King, it must be a traiterous one without doubt.

Oates. Sir, that is not to the Purpose, my Question is, what I swore it was.

L. C. J. He tells you, he beleives you did swear both ways.

Mr. Foster. At that Consult he said such a Resolution was taken, and I think he call'd it a Traiterous Consult.

Oates. If you please, I'll tell your Lordship the Reason, why I asked that Question.

L. C. J. No, you may save your self the trouble of that, you best know the reason of your own Questions; he has given you a satisfactory answer.

Oates. Then if your Lordship please, ask him this Question, whether I swore that all these 3 Jesuites were present at one time, or how many of them.

L. C. J. You hear the Question, what say you to it.

Mr. Foster. Sir, you swore that Ireland, Fenwick and Whitebread were at that Consult, but whether they were all three of them there at one time, I cannot tell, or which of them, were together; but this you did swear, that they were there, and came to such a resolution, and you carryed it to all their Chambers, and did see them sign it.

Mr. Just. Withens. He gives you a plain account, what you did swear, I think Mr. Oates.

Oates. Very well, my Lord, I would ask him a third Question if you please.

L. C. J. Ay, in God's Name, ask him as many Questions as you will.

Oates. Whether did I swear that it was resolved to kill the King, at the *White Horse* Tavern, or whether that Resolution was made after they separated themselves into lesser Clubs.

L. C. J. Mr. *Foster*, this is his Question, whether you did apprehend by what he swore, that he affirm'd, the Resolution to kill the King was made at the *White Horse* Tavern, or afterwards when they were divided.

Mr. Foster. They came to a Resolution, you said, at the *White Horse* Tavern, and the Resolution was there drawn up by one *Mico*, I think, and it was carryed by you for every one to sign it from Chamber to Chamber; for I remember you were asked the Question, whether you saw them sign it, and you answered that you did carry it, and saw them sign it.

Mr. Just. Withens. He speaks very plain *Mr. Oates.*

L. C. J. He answers your Question very fully.

Oates. Ay my Lord, so he does, I am glad of it.

L. C. J. Have you any more Questions to ask him?

Oates. I would ask him another Question; whether I did swear, that I did carry this Resolution from Chamber to Chamber to be signed, or that I carryed it from Chamber to Chamber and saw them sign it.

Mr. Foster. You did swear, that you carryed the Resolution from Chamber to Chamber, and saw them sign it.

Oates. But did you remember it so particularly, as to say which you swore, whether I did carry it to be signed, or carryed it, and saw them sign it.

Mr. Foster. You said, you carryed it to be signed, and you saw it signed.

L. C. J. He tells you for a satisfaction in that point, that he does remember you did swear it both ways.

Oates. He does say so indeed, but whether it was so or no is a doubt.

L. C. J. That will be a Question by and by it may be, if he be in the wrong, I suppose you can rectifie him.

Oates. We are now my Lord upon my Oath, and therefore it concerns me to enquire whether I swore as is laid in the Indictment.

L. C. J. You say right; it does so.

Oates. And I the rather ask these Questions my Lord, because it is six years ago since that Tryal.

L. C. J. I hope you have not forgot what you swore, have you?

Oates. My Lord, I think it is fair for me to ask the Witnesses what they remember after so long a time.

L. C. J. 'Tis very fair, nobody says any thing to the contrary.

Oates. Then my Lord, I hope I may ask this Gentleman how he comes to remember all this after so long a time.

L. C. J. He has told you already, but tell it him again *Mr. Foster.*

Mr. Foster. Truly it is so long ago, that had I not taken all these Notes at the Tryal I had not been able to have given so good an account.

L. C. J. 'Tis a very good reason.

Oates. 'Tis so my Lord, I have subpoena'd others of the Jury, and they will, I suppose, give you as good an account.

L. C. J. Have you done with him then.

Oates. I have one Question more to ask *Mr. Foster*, and that is, whether I swore they met all in one Room, at the *White Horse* Tavern, or in more than one.

Mr. Foster. You swore they were in several Rooms.

Oates. Then I would ask him this Question my Lord, whether he were then satisfied that *Ireland* was guilty of the High Treason he was then indicted.

L. C. J. The meaning of the Question is, I suppose, whether you did believe *Mr. Oates* at that time.

Mr. Foster. Yes, my Lord I had no reason to the contrary.

L. C. J. But I would ask you a Question then *Mr. Foster.* Do you believe him now? Do you think *Mr. Oates* he would have found him guilty, if he had not beleived the Evidence against him.

Oates. We know how Juries have gone alate.

L. C. J. Ay, very strangely indeed *Mr. Oates*, and I hope so as we shall never see them go again.

Mr. Foster

Mr. *Foster*. My Lord, I have lived so long in the City of *London* without any Blemish, that I hope it will not be thought I would give corruptly a Verdict against my Conscience.

Oates. My Lord, I speak of later times than *Ireland's Tryal*.

L. C. J. He is an Honest Man, I know him.

Oates. Good may Lord be pleased to hear me.

L. C. J. Nay, you shall hear me, as well as I shall hear you; I'll assure you that, Mr. *Oates* in plain *English*, ask as many Questions of the Witnesses as you will, that are proper to be ask'd; but I'll have no Delcants, nor Reflections, I know him, and he is very well known in the City of *London*, he is a Man of very considerable Quality, and very good Repute.

Oates. I beseech your Lordship to forgive me, if I mistake in my Questions, I do assure you I design no Reflections on Mr. *Foster*.

L. C. J. Ask what Questions you will, but do not reflect.

Oates. I desire to ask Mr. *Foster* one Question more, and that is, that he would be pleased to tell the reason why at the beginning of his Evidence he said, it was his unhappiness to be a Jury Man at that time.

Mr. *Foster*. Really Sir, I think it not a happiness for any Man to be of a Jury, where the Life of a Man is in Question. I assure you for my self, I never accounted it so, and if I could have avoided it, I should have been very glad to have been excused.

Oates. I have done with Mr. *Foster*.

Mr. *Att. Gen.* My Lord, thus we prove what Mr. *Oates* swore at the Tryal, which Mr. *Oates* himself will not deny, for the Fact, Mr. *Oates* has printed in his Narrative, as we have now proved it.

Oates. I intend to produce some others of the Jury Men by and by.

Mr. *Sol. Gen.* Now we shall call our Witnesses to prove that what he then swore was false.

Mr. *Att. Gen.* We call no more to the point, what he did swear; but go on to disprove what he did then swear.

Oates. My Lord, I would put this Question to the Court, whether this be a Proof sufficient for this point.

L. C. J. I leave that to the Jury, it is a point of Fact that they are to try.

Oates. I beseech your Lordship that the Court would be pleased to give me an Answer.

L. C. J. If you ask impertinent Questions, the Court is not obliged to answer them. Go on Mr. Attorney.

Mr. *Att. Gen.* Call *Martin Hilley Esq;* and *Henry Thornton Esq;* Swear Mr. *Hilley*, (which was done.) Come Mr. *Hilley*, pray acquaint my Lord and the Jury what time you came from *St. Omers*, in the year 78.

Mr. *Hilley*. My Lord, I came from *St. Omers* the 24th of *April* New stile, where I left the Prisoner Mr. *Oates*.

L. C. J. From whence did you come, say you.

Mr. *Hilley*. From *St. Omers* the 24th of *April* New stile.

L. C. J. What year?

Hilley. In the year 78, that is the fourteenth of *April* here, and the three and twentieth of *April* New Stile; I saw the Prisoner at *St. Omers*, and went to School with him, and on the four and twentieth I came from *St. Omers*, and went to *Callis*, and from thence into *England*; but he was never in my Company all the while I was coming for *England*, though he swore he came over with me.

L. C. J. The three and twentieth of *April* you say you saw him.

Mr. *Hilley*. Yes I was with him, that was the day before I came from *St. Omers*.

L. C. J. You left him there the day before you came away, you say.

Mr. *Hilley*. I did not see him that morning that I came away, but here are others that did.

Mr. *Att. Gen.* Was he a Scholar there.

Mr. *Hilley*. Yes, my Lord he was.

Mr. *Att. Gen.* Did you know him very well?

Mr. *Hilley*. Yes my Lord, I did.

Mr. *Att. Gen.* Did he come over into *England* with you?

Mr. *Hilley*. My Lord, I came from *St. Omers* to *Callis* and never saw him, from *Callis* to *Dover*. I never saw him, from *Dover* to *London*, I never saw him all the way, and I am confident, he was not in the same Ship I came over in, for I should have seen him if he had.

Mr. *Att.*

Mr. Att. Gen. Was he for some time before that constantly at St. Omers.

Mr. Hilfey. Yes, we went perpetually to School together.

L. C. J. What time did you take shipping after you went from St. Omers.

Mr. Hilfey. The very next day; the day I went from St. Omers was on the Sunday morning; on Monday I took shipping from Callis to Dover, and I arrived at England at ten of the Clock the same Night.

Oates. When does he say he arrived in England.

L. C. J. He says he went from St. Omers on the Sunday, he came that Night to Callis, and the next day went on Board from Callis, and came that Night to Dover, that was Monday night.

Mr. Hilfey. Yes, I came that Night to Dover, and I lay there that Monday Night, the next day was the 26th of April New Stile.

Mr. Att. Gen. Where come you then from thence?

Mr. Hilfey. I came as far as Bockton Street, and there I lay 4 or 5 days, and then I came to Gittenbourn, and by long Sea from thence to London.

Mr. Att. Gen. Where did you meet Mr. Burnaby.

Mr. Hilfey. I met him hard by there, at a Relations of mine.

Mr. Att. Gen. Do you remember what day you met him.

Mr. Hilfey. I think it was a day or two before I came away from thence to London.

Mr. Just. Withens. Had you any Discourse with Mr. Oates about your coming into England.

Mr. Hilfey. Nothing at all, Sir Francis, that I remember.

L. C. J. What time did you come to London.

Mr. Hilfey. I came within a few days to London, I stayed 4 or 5 days there by the way; and I saw Mr. Burnaby within 4 days, I think, after I came into England. It was about Monday seven-night after I came from St. Omers, that I came to London.

Mr. Att. Gen. That was May New Stile.

Mr. Hilfey. That is their Stile. It was so.

Mr. Soll. Gen. In our Stile it was the 21. of April.

Mr. Hansfys. Pray did you give an account to any Body, after you came to London, that you left Oates at St. Omers, when you came away.

Mr. Hilfey. What say you Mr. Hansfys, I did not well understand your Question.

L. C. J. Then mind me Sir, It was asked of you whether you had any discourse with any Body, after you came hither, that you had left Mr. Oates behind you at St. Omers.

Mr. Hilfey. I did tell some Persons, I left an English Parson there, at the same time I came away.

L. C. J. Did you not name him, who it was.

Mr. Hilfey. Yes, I named him by the Name he went by there, and that was Sampson Lucy.

Mr. Att. Gen. To whom did you tell it.

Mr. Hilfey. To one Mr. Osbourn.

Mr. Soll. Gen. Did he go by that Name of Sampson Lucy in the Colledge.

Mr. Hilfey. Yes he did sometimes, he had three or four Names, he was called sometimes Titus Ambrosius.

Oates. Now my Lord, I desire I may ask that Gentleman a Question or two.

L. C. J. Ay, if they have done with him.

Mr. Att. Gen. We have my Lord.

L. C. J. Then ask him what you will.

Oates. I desire my Lord, that you would be pleased to ask that Gentleman what Religion he is, of: for it is a fair Question, and an equitable one: And that which very nearly concerns me; and I desire to know where he lives.

L. C. J. What Religion are you of Sir?

Mr. Hilfey. I am a Roman Catholick.

L. C. J. Where do you live?

Mr. Hilfey. I live in London, I am of the Inner Temple.

L. C. J. He says that he is a Roman Catholick, and lives in London.

Oates. Pray be pleased my Lord, to ask him when he went to St. Omers first, and how long he stayed there.

Mr. Hilfey. My Lord, I was there about six years, I presume it was about the year 1672. when I went there first.

Oates. Pray ask him what he did there, what was his business.

Mr. Att.

Mr. *Att. Gen.* That is not a pertinent Question at all, with submission, my Lord.

Oates. I beseech you Mr. *Attorney*, give me leave to ask my own Questions.

L. C. J. Ay, but you must ask fair and pertinent Questions.

Oates. My Lord, I would know what was his employment there at St. *Omers*.

Mr. *Hilsley.* I know not my self of any particular employment I had, any more than any of the rest that were there.

L. C. J. But Mr. *Oates*, you must not ask any such Questions, what know I, but by asking him the Question; you may make him obnoxious to some Penalty, you must not ask him any Questions to ensnare him.

Oates. My Lord, it tends very much to my Defence to have that Question truly answered.

L. C. J. But if it tends to your Defence never so much, you must not subject him to a Penalty by your Questions.

Oates. The nature of my Defence requires an answer to that Question.

L. C. J. But shall you make a man liable to punishment, by ensnaring Questions, if a man should ask you what Religion you are of, —

Oates. My Lord, I will tell you by and by my reason, and I hope a good one, why I ask it.

L. C. J. I do not believe you can have any Reason, but to be sure, we must not suffer any such entangling Questions to be asked.

Oates. Pray ask him my Lord, when I came to St. *Omers*.

L. C. J. When did *Oates* come to St. *Omers*.

Mr. *Hilsley.* As well as I remember, he came to St. *Omers* either the latter end of *November*, or the beginning of *December*, in the year 1677. I think it was that year.

Oates. I desire you would ask him, whether they were not Priests and Jesuites that govern'd that House.

L. C. J. What a Question is that, I tell you 'tis not fit to be asked.

Oates. I demand an answer to it, upon the Oath he has taken.

L. C. J. And I tell you, upon the Oath you have taken, you are not bound to answer any such Question.

Oates. Good my Lord, let my Questions be answered.

L. C. J. No Sir, they shall not: How now, do not think to put Irregularities upon us, if you will behave your self as you ought to do, and keep to that which is proper, well and good.

Oates. If your Lordship please, I think this very proper for me.

L. C. J. What, to ask such improper Questions as these are.

Oates. Truly my Lord, I think they are fit Questions to be asked.

L. C. J. But we are all of another opinion.

Oates. My Lord, I desire to know, whether they are not set on by their Superiours to do this.

L. C. J. That is not a fair Question neither.

Oates. Give me leave to make my defence, my Lord, I beseech you.

L. C. J. Ay, in Gods name; but I pray you then make it in a regular and becoming way; for I know of no Priviledge you have more than other People, to use Witnesses as you do.

Oates. My Lord, I look upon my self as hardly used in the case.

L. C. J. I care not what you look upon your self to be, if you will ask Questions, ask none but fair Questions, and while you keep within Bounds, you shall be heard as well as any of the Kings Subjects; but if you will break out into Questions that are impertinent, extravagant, or ensnaring, we must correct you, and keep you within proper Limits.

Oates. Then my Lord, I ask whether he was not a Witness at the Tryal of the Five Jesuites, and at *Langborn's* Tryal.

L. C. J. Ay, that is a proper Question, what say you to't Sir.

Mr. *Hilsley.* I was so Sir.

Oates. Pray my Lord, ask him what Credit he received at those Tryals.

L. C. J. What a Question is that to ask any man.

Oates. My Lord, I think it is a fair Question.

L. C. J. No indeed, it is not a fair one at all.

Oates. My Lord, I desire to know what induces him to come here as a Witness now,
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since it appears that now he comes to give an Evidence that he gave six years ago, and was not believed.

Mr. *Hilsley*. My Lord, I am subpoena'd.

L. C. J. He has given you an answer to the Question, though I think it was an idle Question, and not at all to the purpose.

Oates. It may be he may have some particular reason to induce him to it now.

L. C. J. Well, he tells you he came, because he was subpoena'd, and that is sufficient: He is not compellable to be a Witness, unless he be subpoena'd; but if a man will come without a Subpoena, and give Evidence in a Cause; that is no objection to his testimony.

Oates. My Lord, I desire to know of him, whether he is to have any Reward for swearing in this Cause.

L. C. J. What say you Sir, are you to have any Reward for your Evidence.

Mr. *Hilsley*. None at all as I know of, my Lord, I assure you.

Mr. *Just. Withens*. He is not paid for his Evidence, Mr. Oates.

Oates. If he be, or be not, I cannot tell, nor do I know who ever was paid for it.

L. C. J. Have you any more Questions to ask him?

Oates. Pray my Lord, I desire to know what was the occasion of his coming away from St. Omers.

Mr. *Hilsley*. I had finished my Studies.

Oates. Pray my Lord, be pleased to ask him, if he never heard of any Consult of the Jesuites here in England, in the Month of April 78. and from whom he did hear of it.

Mr. *Hilsley*. I did hear of it among the rest of the Students of the Colledge.

L. C. J. What did you hear of.

Mr. *Hilsley*. I did hear of a Consult of the Fathers in April 1678.

Mr. *Att. Gen.* Yes, there was, but not such an one as Mr. Oates speaks of, nor was he at it.

Mr. *J. Holloway*. For what was that Consult, I pray you.

Mr. *Hilsley*. It was nothing but a Triennial Congregation about the Affairs of the Society.

L. C. J. What were they to do there?

Mr. *Hilsley*. My Lord, I was informed among them there, that it was only what they used to have once in 3 years for ordinary Affairs,

Oates. My Lord, he pretends to tell when I came thither, I desire to know of him, from what time it was he saw me there, and how often.

Mr. *Hilsley*. Generally every day, as near as I can remember, I think Mr. Oates, you and I, Mr. Oates, went to School in the same place.

Oates. Pray how many days was I absent from thence in that time you were there.

Mr. *Hilsley*. You were there generally as often as I; I do not know whether ever you mist a day, or no.

Oates. Pray my Lord, will you ask this Gentleman one question more, whether he can particularly tell that he did see me every day at St. Omers. For 'tis not enough for him to swear that he saw me there; but he ought to give an account how he comes to know it by some particular Circumstances.

L. C. J. He has given you several Circumstances of his Knowledge, for he says he was there all the while from your coming, till 23d. of April New Stile, that he came for England; he says he was a Scholar in the same Form and Class with you, and because he does not remember himself to have been absent, he does not remember you to be absent neither.

Mr. *Att. Gen.* And he swears particularly to the very time he came over, which was April 14th. Old Stile.

Oates. Well, I have no more Questions to ask this Gentleman.

L. C. J. Then call another.

Mr. *Soll. Gen.* Cryer, call Mr. *John Dorrel*, (who was sworn.)

L. C. J. Look ye Mr. Attorney, you did open things at the first for Methods sake by Periods of time; the first was *Hilsley's* coming over, the next was the meeting with *Bournaby*, now pray observe that Method, and call that *Bournaby* next.

Mr. *Att. Gen.* My Lord, we shall call him by and by; but we have not done with this business about *Hilsley*, we have some Witnesses that will give an Evidence to strengthen and back his Testimony. Come Mr. *Dorrel*, what have you to say to this matter.

Mr. *Dorrel*.

Mr. Dorrel. My Lord, in April 1678. I came from *Brussels* to *England*, where presently after I came, I was with one Mr. *Osborn* and my Mother, and there was a Discourse between my Mother and him about Religion.

L. C. J. Where was that.

Mr. Dorrel. It was here in *England*.

Mr. Att. Gen. Now tell the time when that was.

Mr. Dorrel. As near as I can guess, it was 15 or 16 of April Old Stile, in the year 1678.

Mr. Att. Gen. Well Sir, go on with your Story.

Mr. Dorrel. My Mother was laughing at his Religion, and telling him some ridiculous Stories, and he replied, there are a great many that are so ignorant, that are bred up in the Religion of the Church of *England*, that they are forced to be sent to the Colleges abroad to be taught, even some of the Clergy of that Church, and particulariz'd in one *Sampson Lucy* alias *Oates*, that was a Scholar at that time at *St. Omers*, as he was assured by a Gentleman that was newly come from thence: My Mother is now sick, or else she would have been here, and would have testified the same I now do.

Mr. Soll. Gen. This Gentleman is a Protestant Mr. *Oates*.

Oates. What is your Name Sir, I pray.

Mr. Dorrel. My Name is *John Dorrel* Sir.

Oates. Were you never at *St. Omers* a Student there.

Mr. Dorrel. I was there, but before your time Doctor; I had not the happiness to be there, while you were there.

Oates. I pray Sir what Religion are you of.

Mr. Dorrel. I am a Papist now.

Oates. I desire my Lord, the court would be pleased to take notice of it, he owns he was reconciled to the Church of *Rome*.

Mr. Dorrel. Mr. *Oates*, to satisfy you, I went over when I was Child of 12. or 13. years old, and so was bred in that persuasion.

L. C. J. Well, well, we all observe what he says.

Mr. Soll. Gen. Pray swear Mr. *Osborn*, (which was done)

Mr. Att. Gen. My Lord, we call'd this Person only to this matter. Pray Sir will you give the Court and the Jury an account what Discourse you had with Mr. *Hilsey* about *Oates*, and pray Sir tell the time when it was.

Mr. *Osborn*. My Lord, I went out of Town the 30th. of April, the year before the pretended Plot was discovered by Mr. *Oates*, and I met with Mr. *Hilsey* two or three days before, and enquiring of him about the Affairs of *St. Omers*, he told me of a Minister of the Church of *England* that was come thither to be a Student there, who went under the name of *Sampson Lucy*, but his right Name was *Oates*; I asked him what he pretended to; did he intend to be of that order; he told me, he did believe that he would not be admitted, for his Irregular and Childish Behaviour, and that he had left him in the College; and this I afterwards in Discourse told to Madam *Dorrel*, who is a Protestant, and to my Mother, who is since dead.

Mr. Att. Gen. Will Mr. *Oates* ask this Gentleman any Questions.

Oates. I only ask him what Religion he is of.

L. C. J. What Religion are you of, Sir?

Mr. *Osborn*. I am a Roman Catholick my Lord.

Mr. Soll. Gen. Now my Lord, we come to call Mr. *Bournaby*. Pray swear him (which was done.)

Mr. Att. Gen. Mr. *Bournaby*, pray will you acquaint my Lord and the Jury, of the time when you came from *St. Omers* to *England*; and when you met with Mr. *Hilsey*.

Mr. *Bournaby*. I met with *Hilsey* on the 18th of April Old Stile, in the year 78. then I pursued my Journey the following day to *St. Omers*.

L. C. J. Where did you meet him.

Mr. *Bournaby*. Between *Cittenbourn* and *Canterbury*, and afterwards I pursued my Journey from *Canterbury* to *Dover*, from thence to *Calis*, and from thence to *St. Omers* I arrived at *St. Omers* the 21. of April Old Stile, which was the first of May New Stile, upon the Second of May Mr. *Oates* was in my Company, I was walking in the Garden, and he came into my Company.

L. C. J. When was it.

Mr. *Bournaby*

Mr. *Bournaby*. The Second of *May* New Stile, and the Third of *May* again I went into the Garden, and there he was with me again, and the Fifth of *May* I saw him again.

L. C. J. Where?

Mr. *Bournaby*. In the *Rhetorick* Form.

L. C. J. But where, in what place?

Mr. *Bournaby*. At St. *Omers*.

L. C. J. You speak of your own Knowledge, you are sure you saw him there at those Times?

Mr. *Bournaby*. Yes, in the *Rhetorick* School and in the Garden.

Mr. *Att. Gen.* What more do you know of him?

Mr. *Bournaby*. I saw him again the 8th of *May* New Stile, that is the 28th of *April* Old Stile; I mean by New Stile, that Stile which was used in the Place where I was then.

Mr. *Att. Gen.* How long was he there before he went away.

Mr. *Bournaby*. I know he was there from the Second of *May*, the day after I came thither to the 20th of *June*, and then I went away, or thereabouts.

L. C. J. Did you see him daily all that time?

Mr. *Bournaby*. Yes, from day to day he was not out of the House.

L. C. J. Were you a Scholar there with him?

Mr. *Bournaby*. Yes I was.

L. C. J. What year was that.

Mr. *Bournaby*. In the year 78.

Mr. *Att. Gen.* Mr. *Oates* may ask him what Questions he will.

Oates. My Lord, he says he went away; I desire to know whither he did go.

Mr. *Bournaby*. I went away the 20th of *June* from St. *Omers*, it is no matter whither I went.

Oates. I desire he may give an account what Religion he is of.

Mr. *Bournaby*. I am a Roman Catholick.

Oates. My Lord, I desire to know whether he be not of that order.

L. C. J. That I will not ask him, I'll assure you.

Oates. Truly my Lord, I think it is a very hard matter for me to have Jesuites admitted as Witnesses in such a cause against me.

L. C. J. I have told you already, you are not to ask any Questions of any Witnesses that may subject them to any Penalty, or make them accuse themselves of any Crime.

Oates. My Lord, I humbly desire he would give an account, whether he were not admitted into the Society.

L. C. J. I tell you, he is not to be ask't that question.

Oates. He has own'd before.

L. C. J. Do you take your advantage of it, if you can prove it.

Oates. Then my Lord, I desire to ask him, whether or no he did appear as a Witness at the Tryal of the 5 Jesuites.

Mr. *Bournaby*. No my Lord, I did not.

Oates. Pray my Lord ask him whether he was not summon'd to appear then.

Mr. *Bournaby*. No, I was not.

Oates. Pray my Lord ask him what Reward he is to have for coming, and giving this Evidence.

L. C. J. Are you to have any Reward for being a Witness in this Cause?

Mr. *Bournaby*. None my Lord, that I know of.

L. C. J. That was a proper Question to be asked, and you have a fair Answer to it.

Oates. Pray Mr. *Bournaby*, by what name did you go at St. *Omers*.

Mr. *Bournaby*. By the Name of *Blunt*.

Mr. *Att. Gen.* And what name did he go by there.

Mr. *Bournaby*. Who Sir.

Mr. *Att. Gen.* Mr. *Oates*.

Mr. *Bournaby*. By the Name of *Sampson Lucy*.

Oates. My Lord, I desire you to ask him whether he did know of any Consult that was to be held here in *London* in *April* 78. and by whom he knew it.

L. C. J. What say you Sir, did you know of any Consult.

Mr. *Bournaby*. No, I neither heard of it, nor knew any thing of it.

Mr. *Att.*

Mr. Att. Gen. Now my Lord, we shall go on to another Period of time, and that is concerning Pool. Swear Mr. Pool, (which was done.)

Mr. Soll. Gen. Pray will you acquaint my Lord and the Jury, whether you knew Mr. Baurnaby at St. Omers.

Mr. Pool. Yes, I did Sir.

Mr. Soll. Gen. Do you know the time when he came to St. Omers.

Mr. Pool. No, I do not remember it.

Mr. Att. Gen. When did you come over from St. Omers.

Mr. Pool. The 25th of April.

Mr. Att. Gen. What Stile?

Mr. Pool. Old Stile.

Mr. Att. Gen. In what year?

Mr. Pool. In the year 78.

Mr. Att. Gen. Did you know Mr. Oates at St. Omers.

Mr. Pool. Yes, I did know that Gentleman there.

Mr. Att. Gen. Was he at St. Omers that time you were there?

Mr. Pool. Yes he was.

Mr. Soll. Gen. Did you leave him there when you came away?

Mr. Pool. Yes, I did leave him there when I came away.

Mr. Soll. Gen. Pray tell the Court some particular thing why you remember it, and upon what account you came away.

Mr. Pool. Upon the occasion of my Brothers Death I came over, and I can tell several particulars of my Journey, I came away upon the Thursday, and I came to London upon the Sunday following.

Mr. Att. Gen. You are sure you left Mr. Oates there then?

Mr. Pool. Yes, I am sure I did leave Mr. Oates there when I came away, and I came away thence the Fifth of May New Stile, the Twenty Fifth of April Old Stile.

Mr. Soll. Gen. Pray how long did you know Mr. Oates there.

Mr. Pool. I knew him there from Christmas before that.

L. C. J. You were of the Colledge, were you not.

Mr. Pool. Yes, I was a Student there.

L. C. J. You are sure he was there all the while.

Mr. Pool. I do not remember he was a day absent, and if he had gone away, particular notice would have been taken of it.

L. C. J. Did you see him there two or three days before you came away.

Mr. Pool. I saw him that morning I came away.

L. C. J. And what time before.

Mr. Pool. I saw him two or three days before that.

L. C. J. Can you name any particular days?

Mr. Pool. I saw him the first of May, and the Second of May, and the fifth of May, which was the 25th of April Old Stile, and then I came away.

L. C. J. Are you sure you left him there then?

Mr. Pool. I am sure I left him there, I can swear it without any difficulty at all.

L. C. J. What do you ask him Mr. Oates.

Oates. I desire to know what Religion he is of.

L. C. J. What Religion are you of?

Mr. Pool. I am a Roman Catholick.

Oates. I desire your Lordship would ask him whether he was a Witness at the Tryal of the 5 Jesuites, or at Langhorn's Tryal.

Mr. Pool. No, I was never an Evidence before in my Life.

Oates. Pray my Lord ask him, whether he was not admitted into the Sodality of the Virgin Mary.

L. C. J. No indeed I shall ask him no such Question.

Oates. Pray my Lord, let him answer it.

L. C. J. Prove what you can when it comes to your turn, but ask him no entangling Questions.

Oates. He has made himself liable to a Penalty by being in that Seminary.

L. C. J. I hope a Man may be at St. Omers, and yet not be punished for it.

Mr. Oates.

Oates. It is my defence to disable the Witnesses against me,

L. C. J.

L. C. J. But they must not be askt what may make them accuse themselves.

Oates. My Lord, it is hard that the Witnesses shall not be made to answer my Questions.

L. C. J. Pray Sir be quiet, we have told you often enough already, you must not think to govern us, it must not be allowed.

Oates. My Lord, I desire he may be askt then what Reward he has to come, and swear in this Cause.

Mr. Pool. My Lord, I do not know that I am so much as to have my Charges born.

L. C. J. Are you to have any Reward.

Mr. Pool. No, my Lord, that I know of.

Oates. Pray my Lord, I desire he may ask't, what was the occasion of *Mr. Hilley's* coming away from *St. Omers*.

Mr. Pool. Indeed I did not examine into the occasion at all, for I was never a man that medled or made on any side, but lived quietly in the Colledge, and minded my Studies.

Oates. My Lord, I desire your Lordship to ask him whether he did know of any Consult of the Jesuites in *April 78.* and from whom he knew it.

Mr. Pool. I know not of any particular Consult, I heard something in general of a Triennial Congregation, but I cannot speak any thing of my own Knowledge.

Oates. My Lord, I desire to know of him, if he can tell when I came to *St. Omers*.

L. C. J. Do you know when *Oates* came to *St. Omers*?

Mr. Pool. About *Christmas*, as near as I can remember, it was the latter end of *November*.

Oates. How much before or after *Christmas* was it?

Mr. Pool. I cannot tell exactly.

Oates. What year was it in?

Mr. Pool. In the year 77.

Oates. I desire to know of him my Lord, whether he saw me every day at *St. Omers* at dinner.

Mr. Pool. I cannot say, that ever I knew he was absent any one day, never 3 days I think I may affirm; but only when he was in the Infirmary.

Mr. Att. Gen. That's the place where they go when they are Sick.

Oates. Pray my Lord, ask him by what name he went, when he was there in the Colledge.

Mr. Pool. By the name of *Killingbeck*.

Mr. Sol. Gen. By what name did he go by, I pray you.

Mr. Pool. By the name of *Sampson Lucy*.

Mr. Sol. Gen. Swear *Mr. Henry Thornton*, (which was done.)

Mr. Att. Gen. *Mr. Thornton*, pray where were you in the year 78.

Mr. Thornton. At *St. Omers* my Lord.

Mr. Att. Gen. Do you remember *Mr. Oates* there, do you know him?

Mr. Thornton. Yes, I know him very well.

Mr. Att. Gen. When did he come thither?

Mr. Thornton. He came there about *Christmas 77*.

Mr. Att. Gen. How long did he continue there?

Mr. Thornton. He staid there till *St. John Baptist's Eve* in *June 78*.

Mr. Att. Gen. *Midsummer* you mean.

Mr. Thornton. Yes, the *Eve of St. John Baptist*.

Mr. Att. Gen. What *Stile*?

Mr. Thornton. *New Stile*.

Mr. Soll. Gen. Did you see him there all the while?

Mr. Thornton. Yes, I did see him every day, I believe, in the Refectory at Dinner time, and at Night in the Dormitory, where all the Collegians have their Beds, I lay over against him every Night, I saw him particularly upon the day of *Hilley's* departure, which was the 24th of *April New Stile*, and I saw him the first of *May New Stile*, upon the coming of *Mr. Bottraby* to the Colledge, and particularly again I remember him there the 2d of *May*, when my Schoolfellows exhibited an Action or Play.

Mr. Att.

Mr. Att. Gen. Was Mr. Oates there then?

Mr. Thornton. Yes, I saw him present at it, and I know it by this particular Circumstance, there was a scuffle between him and another about a place to see the Play.

Mr. Jones. Did you see him the 23d of *April* Old Style, that is, the third of *May* New Style, which was the day after your Play, that you remember?

Mr. Thornton. I do not remember that I did see him that day, by any particular circumstance, though I believe I did.

Mr. Jones. Do you remember when Mr. Poole came away from St. Omers?

Mr. Thornton. Yes, I do.

Mr. Jones. When was that? Mr. Thornton. The 5th of *May* New Style.

Mr. Jones. Was Oates at St. Omers at that time?

Mr. Thornton. Yes, he was there then, I am sure.

Mr. Att. Gen. Was not he Reader there in the Colledge?

Mr. Thornton. He was Reader in the Sodality, and to my knowledge, he did not miss once from the 24th of *April* New Style, to the 24th of *May* New Style, from being there, and reading in the Sodality.

L. C. J. What did he use to read?

Mr. Thornton. Some Spiritual Book or piece of Divinity, or the like, as it was usual to have read every *Sunday* and *Holiday*.

L. C. J. And that is one reason why you conclude he was there all that while, because every *Sunday* and *Holiday* he was to read, and did read.

Mr. Thornton. Yes, my Lord.

Oates. Pray my Lord, be pleased to ask this Gentleman what Religion he is of.

Mr. Thornton. A *Roman* Catholick.

Oates. Where does he live?

L. C. J. Where do you live Mr. Thornton?

Mr. Thornton. I am a *Northumberland* man, that's my Country.

Oates. Mr. Lord, I desire to know of him, when he did come from St. Omers?

Mr. Thornton. I came from St. Omers, my Lord, about two years after that Oates went away from thence.

Oates. Pray my Lord, be pleased to ask him, who it was that was Rector or Governour of that House or Colledge.

Mr. Thornton. It was one Mr. *Richard* Ashby.

Oates. Pray my Lord, be pleased to ask him, what School he was in there.

Mr. Thornton. I was in *Sintaxe*, my Lord.

Oates. Then my Lord, I would ask him another question, and that is this, whether he was not a Witness in behalf of the five Jesuits and Mr. *Langhorn*.

Mr. Thornton. No, I was not, my Lord.

Oates. My Lord, I desire to know, if he can tell the occasion of Mr. *Hilley* coming away from St. Omers.

Mr. Thornton. It never concerned me at all, and I never enquired into it.

Oates. Then my Lord, I would ask him this question, why he is so precise as to his Remembrance of what was done in *April* and *May*, when he does not give any account of any other time, nor did the other Witnesses.

L. C. J. Yes, but they do; they give you a particular account from the time of your coming thither, which was about *Christmas*, some say the latter end of *November*, or the beginning of *December*, they are not positive to any particular time, but thereabouts, and so from that time all along till *June*.

Oates. I beg your Lordships pardon, I did not hear that he said any such thing.

L. C. J. If you will, I'll ask him that question again for your satisfaction.

Oates. If you please, my Lord.

L. C. J. Then mind what is said; Do you remember that Oates was there in *March* before, and in *February* before?

Mr. Thornton. Yes, I particularly remember in *March* before, he did read a Ridiculous Book in the Sodality, and he was remarkable in the House by twenty Ridiculous passages.

Oates. I do acknowledge I did in *March* read a pleasant Book, called *The Contempt of the Clergy*.

L. C. J. By whose Order did he read that Book in the Sodality?

Mr. Thornton. I do not know, whether it was by his own election that he was

Reader there, or by the Command of the Prefect of the Studies, that has the Care of the Students, and appoints them their Business.

Oates. Pray my Lord, be pleased to ask him how long he was Resident at St.

Omers.

Mr. Thornton. I was there seven years.

L. C. J. You said he was there in *June* till *Midsummer* Eve.

Mr. Thornton. Yes, he was so.

Oates. I own that I was there in *June*, but that was after I returned from *England*.

L. C. J. When do you say he left the Colledge first?

Mr. Thornton. He never left the Colledge from the time of his coming thither first till *Midsummer* Eve, only one time that he was at *Watton*, and that was but a day or two at most, which is not a League out of Town.

L. C. J. Do you remember him there about *Christmas* time.

Mr. Thornton. Yes, my Lord, very well.

L. C. J. When was it he went to *Watton*?

Mr. Thornton. About the latter end of *January* (as I do remember) and in *February* above *Shrovetide* I remember him particularly to be there.

L. C. J. Now *Mr. Oates*, you see he speaks to other times besides *April* and *May*, and he brings, upon my word, very notable circumstances.

Oates. He says he went to School with me there, I think, my Lord.

Mr. Thornton. No, I say he was in the same Colledge.

L. C. J. But not in the same Classis, for it seems you were in the Rhetorick Form, and he in the Syntax.

Mr. Thornton. My Lord, he went there by reason of his Age, and upon no other account; he might have gone elsewhere with us who were of a lower Form, for any great store of Learning he had.

L. C. J. You hear him, I suppose, *Mr. Oates*, he gives no great commendation of your Scholarship.

Oates. That is nothing to this question; but pray my Lord, be pleased to ask him, whether he did not hear of a Consult of the Jesuits held here in *England* in *April* 78.

L. C. J. What say you Sir, Did you hear of any such Consult?

Mr. Thornton. Yes, my Lord, I did hear of a Triennial Congregation, such as used to be held by them, but that did not belong to me to enquire into it.

Oates. My Lord, I desire to know of whom he did hear it.

L. C. J. How do you know there was such a Consult, who told you of it?

Mr. Thornton. I heard of it in the House, and I had read that it was the Custom of that Society of People to have such a meeting once in three years.

Mr. Att. Gen. Pray for what purpose did they so meet?

Mr. Thornton. As I have been told, It was to send a Procurator to *Rome*, and for their managing their other Affairs, which concern'd their Society.

Mr. Sol. Gen. Have the Jesuits usually such a Consult once in three years Sir?

Mr. Thornton. I was never present at any such Congregation, I was not capable of it.

L. C. J. But was it us'd to be said so?

Mr. Thornton. Yes, my Lord, I have heard it said so, and read of it.

L. C. J. *Mr. Oates*, Will you ask him any more questions?

Oates. No, my Lord.

L. C. J. Well then, go on *Mr. Attorney*, and call another Witness.

Mr. Att. Gen. Swear *Mr. William Conway* (which was done.)

Mr. Sol. Gen. *Mr. Conway*, pray will you give my Lord and the Jury an account where you were in the year 1677. and in the year 1678.

Mr. Conway. I was then at St. *Omers*, my Lord.

Mr. Sol. Gen. Do you remember *Mr. Oates* there at any time?

Mr. Conway. Yes, my Lord, I do.

Mr. Sol. Gen. Pray at what time was he there as you remember?

Mr. Conway. He came in *December* before *Christmas* 1677. and did not go away till *June* 1678.

Mr. Sol. Gen. What time in *June* did he go away?

Mr. Conway. About the twentieth of *June*, I think.

Mr.

Mr. Sol. Gen. Were you there all that year?

Mr. Conway. Yes, I was there a Scholar in the Colledge.

Mr. Jones. Was he all the time you speak of in the Colledge?

Mr. Conway. He lay out one night. Mr. Sol. Gen. What time was that?

Mr. Conway. In *January*, to the best of my remembrance.

Mr. Sol. Gen. Could he be out of the Colledge any time and not be mist?

Mr. Conway. No, my Lord, he could not.

Mr. Sol. Gen. Did you miss him at any time?

Mr. Conway. No, my Lord.

Mr. Sol. Gen. Was he there in *April 1678*? Mr. Conway. Yes, my Lord.

Mr. Sol. Gen. Can you tell any particular passages that can make you remember it?

Mr. Conway. Yes my Lord, I can.

Mr. Sol. Gen. Tell my Lord and the Jury how you can remember it?

Mr. Conway. I remember Mr. *Hilsley's* departure, which was the 24th of *April* New Style, and soon after Mr. *Bournaby* came, but I do not know the time exactly, I was desirous to know of Mr. *Bournaby* whether he met Mr. *Hilsley* upon the way, and he told me he did meet him, and the next day I saw Mr. *Oates* and Mr. *Bournaby* walking together very familiarly, and I took particular notice of it at that time, Mr. *Bournaby* being but newly come, so that I took him to have known Mr. *Bournaby* before, or else I concluded him to be a little impudent by his intruding into his company.

Mr. Sol. Gen. Do you remember him in *March* before?

Mr. Conway. Yes Sir.

Mr. Sol. Gen. What particulars do you remember of his being there then?

Mr. Conway. I remember him to be there on the *Thursday* in *Mid-Lent*, the Scholars in the Colledge had a particular Recreation, which they call, *Saving of the I:itch*, and Mr. *Oates* was among them, and I was one of them that broke a Pan about his head for Recreation.

Mr. Sol. Gen. Do you remember the first of *May*, that there was in your Colledge a Play acted?

Mr. Conway. As for the Play, I remember what part *Esquire Pool* acted in it, but I remember not any particulars that can make me so sure as to swear that *Oates* were there.

Mr. Att. Gen. Do you remember any scuffling for a place there?

Mr. Conway. I do not remember it of my own knowledge, I heard of it afterwards.

Mr. Sol. Gen. You say that you saw Mr. *Bournaby* and him walking together the next day after he came.

Mr. Conway. Yes, I did so Sir.

Mr. Sol. Gen. Did *Oates* use to read in the Sodality?

Mr. Conway. My Lord, there was another chosen according to the Custom to read, but Mr. *Oates* took the Book, and did read.

Mr. Sol. Gen. Did he read constantly?

Mr. Conway. I did never miss him any *Sunday* or *Holyday* all the time.

L. C. J. From what time to what time did he read?

Mr. Conway. From a little after *Easter* till he went away.

Mr. Att. Gen. Is it usually taken notice of in the Colledge when any person who is a Student goes away from the Colledge?

Mr. Conway. There is nothing more discoursed of among Scholars, than that when it happens any one goes out of the Colledge.

L. C. J. And pray when did he go away?

Mr. Conway. In *June*, about the twentieth, as near as I can remember.

Mr. Sol. Gen. Did you observe him at Dinner there constantly?

Mr. Conway. Yes, he sate by himself.

Mr. Sol. Gen. How came that to pass?

Mr. Conway. He sate at a little Table in the Hall by himself, for he pretended, being a man in years, he could not Diet as the rest of the young Students did, and therefore obtained leave to sit alone at a little Table by himself, and he sate next to the Table of the Fathers, to which all the Students were to make their Reverence before they sate down.

L. C. J. He was a very Remarkable man by his sitting by himself; Did he sit there alwaies?

Mr. Conway. He changed his Table once, and I took notice that he sate on the other side of the Refectory.

Mr. Sol. Gen. When was that I pray, can you remember?

Mr. Conway. That was a little after *Easter*.

Mr. Att. Gen. Will *Mr. Oates* ask him any Questions?

Oates. Pray my Lord will you ask this Gentleman what Religion he is of?

Mr. Conway. I am a *Roman Catholick*.

Oates. Pray ask him where he lives.

L. C. J. Where do you live Sir?

Mr. Conway. Where now at present my Lord?

L. C. J. Where do you usually live?

Mr. Conway. I am a *Flinshire* man, my Lord.

Oates. Pray ask him what Name he did go by at *St. Omers*.

Mr. Conway. By the name of *William Parry*.

Oates. Pray ask him by what name he gave his Evidence in at the five Jesuits Tryal.

L. C. J. Were you a Witness at the Tryal of the five Jesuits?

Mr. Conway. Yes, I was.

L. C. J. By what name did you give your Evidence there?

Mr. Conway. By the name of *Parry*.

Oates. Then I desire the Court to take notice he represented himself by a feigned name in a Court of Record.

Mr. Conway. I went by both names, my Lord.

L. C. J. Well, make what advantage you can of it by and by.

Oates. Pray my Lord ask him, if ever he heard of any Consult of the Jesuits held here in *England* in *April 1678*?

Mr. Conway. Yes, I did.

Oates. Pray my Lord ask him, who inform'd him of that Consult.

Mr. Conway. I heard it among the rest of the Scholars, and seeing some of the Fathers go over to it, I was told so.

Mr. Att. Gen. Is it an usual thing for them to have such meetings?

Mr. Conway. They have a Congregation ordinarily once in three years.

Mr. Sol. Gen. Does it go by the name of a Consult, or what name has it?

Mr. Conway. Some call it a Congregation, and some a Consult.

M. Sol. Gen. What is the end of such meeting, as you have heard?

Mr. Conway. They say it was to chuse a Procurator to send to *Rome*, and give an account of the Province.

Oates. My Lord, I would ask him another question, whether he is to have any Reward for giving this Evidence here.

Mr. Conway. No, not that I know of, but what I expect from Almighty God.

Oates. Pray ask him how long he lived at *St. Omers*.

Mr. Conway. Five years. *Oates.* My Lord, I have done with him.

Mr. Sol. Gen. Then call *Mr. Haggerstone*, and swear him, (which was done.)

Mr. Att. Gen. *Mr. Haggerstone*, pray will you acquaint my Lord and the Jury, were you at *St. Omers* in the year 1678. with *Mr. Oates*?

Mr. Haggerstone. Yes, I was my Lord, I had the honour to be of the same Bench with the Doctor of *Salamanca*.

L. C. J. You mean you were of the same Class with him.

Mr. Haggerstone. Yes my Lord, of the same Class.

L. C. J. In what year was it? *Mr. Haggerstone.* In the year 1678.

Mr. Att. Gen. In what Form were you?

Mr. Haggerstone. In the same Bench with Doctor *Oates* in the Rhetorick Form.

Mr. Att. Gen. Do you remember *Mr. Oates* in *April 1678*?

Mr. Haggerstone. Yes. *Mr. Att. Gen.* What time?

Mr. Haggerstone. He spoke unto me on the 25th of *April*.

Mr. Att. Gen. What Style do you mean?

Mr. Haggerstone. New Style Sir, to avoid confusion, I speak of the Style of the place where I was; he asked me concerning our School-fellow *Mr. Hilsley*, who was then gone from the Colledge, whether I had heard any thing from him since he

went

went away, and he spoke of an indisposition he had, for which he prescribed him a Medicine of Poppy, and he thought it would do his business effectually.

L. C. J. Who said so?

Mr. Haggerstone. The Doctor of *Salamanca*, he was called *Sampson Lucy* in the Colledge, and likewise he forbid him to chew Tobacco, which he us'd to do very much; he was called *Titus Ambrosius*, he had twenty Names.

Mr. Att. Gen. Was he there all *April* Sir?

Mr. Haggerstone. Yes, he was Sir.

Mr. Att. Gen. Did you know him in *March* before?

Mr. Haggerstone. Yes, he was there all *March* before.

Mr. Att. Gen. Was he there in *February*?

Mr. Haggerstone. Yes, as near as I can remember, he was absent but one day, and then he went to *Watton* in *February*, or else in *January*.

L. C. J. Do you remember when he came thither first?

Mr. Haggerstone. Yes my Lord, he came in *December* near *Christmas* as I remember.

L. C. J. Was it about that time, upon your Oath?

Mr. Haggerstone. I speak it upon my Oath, it was.

L. C. J. When did he go away?

Mr. Haggerstone. About the latter end of *June*.

L. C. J. Was he absent any time between *December* and *June*?

Mr. Haggerstone. I do not remember that he was absent, save only in *January* or *February*, and that was not for above a night, when he went to *Watton*.

L. C. J. Might not he be absent, and you not mind it, or know it?

Mr. Haggerstone. Sure if he had been absent, we could not but have known it.

L. C. J. How so, pray you?

Mr. Haggerstone. If any goes away, 'tis so publick, that it cannot be without notice being taken of it.

Mr. Att. Gen. Can you remember by any particular token he was there in *April* or *May*?

Mr. Haggerstone. He spoke to me on the 29th of *April* New Style, and told me, that there was a Craving English-man had been there to beg an Alms, and there was a Collection made for him among the Scholars, but he said he would give him nothing, for he told me he had been cheated by such an one of some Pieces of Eight in *Spain*; this I remember was the 28th or 29th of *April* New Style, I saw him there the first of *May*, upon the second of *May* there was an Action of the Scholars, and he was present at it; the fifth of *May* I was at School with him, when Mr. Pool went away for *England*, and I heard him about that time preach a pleasant Sermon, for he would undertake sometimes to preach, and he said in it, That the late King *Charles* the Second halted betwixt two Opinions, and a stream of Popery went between his Leggs

L. C. J. Was this in *May*?

Mr. Haggerstone. Yes, just after Mr. Pool went away for *England*, and he had some pretty Reflections in his Sermon about *Toby's* Dogg wagging his Tail.

L. C. J. Well, do you ask this Witness any question, Mr. Oates?

Oates. Pray be pleased to ask him, my Lord, what Religion he is of.

Mr. Haggerstone. I am a Papist, my Lord, I am not ashamed of it.

Oates. Pray my Lord, ask where he lives.

Mr. Haggerstone. At *London*.

Oates. Pray ask him what Country-man he is.

Mr. Haggerstone. I am a *Northumberland* man, my Father is Sir *Thomas Haggerstone*, a man better known than your Father, Doctor Oates.

L. C. J. Nay, nay, do not be in a passion man.

Oates. Pray ask him how long I was with him at *St. Omers*.

Mr. Haggerstone. For half a year at least.

Oates. My Lord, I desire to know how long he stayed there himself.

Mr. Haggerstone. I studied my whole Course of Humanity there.

L. C. J. How long were you there in all?

Mr. Haggerstone. Seven years.

Oates. Pray my Lord ask him, whether he knows of any Consult held, or to be held here in *England* in *April* 1678.

Mr. Haggerstone. Yes, my Lord, I saw two of the Fathers go from *St. Omers*

to the Congregation, and was there at their return, but all that time I frequented Doctor *Oates's* company, and he remained in the Colledge.

Oates. Pray who were these two Fathers?

Mr. Haggerstone. *Mr. Williams* and *Mr. Marsh*; and when they return'd, *Oates* ask'd me about it, whether they had been at the Consult, and I told him there was such a thing, but he never knew it till afterwards; but this I am sure of, he was never missing all the while, I sat on the same Bench with him.

Oates. Pray my Lord ask him, what name he went by at *St. Omers*.

Mr. Haggerstone. I went by the name of *Harry Howard*, my Mother was a *Howard*, Doctor.

Oates. Pray ask him whether he came into *England* when he went away from thence.

Mr. Haggerstone. No, I went and studied my Philosophy at *Doway*.

Oates. I desire to ask him one question more.

Mr. Haggerstone. Twenty, if you please, Doctor.

Oates. I desire to know of him the occasion of *Mr. Hilley's* coming away.

Mr. Haggerstone. I do know it, but truly I cannot tell whether it be fit for me to speak of it, it was upon some unhandsome account, but I must not blemish any Gentleman, I think.

Oates. My Lord, I will ask him one question more, whether ever he was admitted into the Society.

L. C. J. I will not ask him that question, how often have I told you no such questions are to be ask'd? must I make him liable to Penalty? No, ask questions that are fair, and you shall have a fair answer.

Oates. My Lord, I have done then with him.

Mr. Sol. Gen. Then swear *Mr. Robert Beeston*, (which was done.)

Mr. Att. Gen. Pray Sir, were you at *St. Omers* in the year 77. and 78?

Mr. Beeston. Yes, my Lord, I was.

Mr. Att. Gen. Did you see *Mr. Oates* there then? do you know him?

Mr. Beeston. Yes, I know him very well, I did see him there.

Mr. Att. Gen. What months did you see him there?

Mr. Beeston. He came there in *December*, the beginning as I remember, and he stayed there to *June* the latter end.

Mr. Att. Gen. What years was that in?

Mr. Beeston. He came in 77. and went away in 78.

Mr. Att. Gen. Did you observe him to be there in *April* and *May* 78?

Mr. Beeston. The latter end of *April*, and the beginning of *May* I did.

Mr. Att. Gen. Tell the Court particularly how you remember it.

Mr. Beeston. My Lord, I saw him the first of *May* at *St. Omers*, where he played at Nine-pins, and I laid a wager upon the same side that he did, and lost my money as well as he.

L. C. J. Do you remember any other time?

Mr. Beeston. I saw him the second of *May*, by the same token that I met him in the Colledge that day, when our School exhibited an Action in the Hall, and I met him after Supper; now in this Action I had both acted and sung, and they came and congratulated me for my singing; *Mr. Oates* said, if I had paid for learning to sing, I had been basely cheated; and then in the morning I was chosen Reader in the Sodality, the 25th of *April*, or thereabouts, for a fortnight, and *Mr. Oates* by his own submission was admitted to Read, only with this condition, that if ever he were wanting, I was to Read again; but this I say, I never supplied the place; therefore I am sure he did continue there all the while, and if he had been out, I must have been called upon to Read.

L. C. J. Were you in the Colledge all the time he was there?

Mr. Beeston. Yes, my Lord, I was.

L. C. J. Did you miss him at any time?

Mr. Beeston. No, I never miss'd him.

L. C. J. Are you sure he was not away all that time?

Mr. Beeston. I am sure, as much as a man can be certain of one that is of the same family with himself; nay, I am as sure of it, as that I was there myself.

L. C. J. Can you speak any thing particularly of his Reading?

Mr. Beeston. My Lord, I was to have Read, if he was absent, but I was never called

led upon to Read, and therefore I may well conclude he was there all the while.

L. C. J. He gives a material Evidence.

Mr. Sol. Gen. Was *Mr. Oates* such a remarkable man that he must be mis'd?

Mr. Beeston. He was very particular both for Age, and that he had a particular Table to Eat at.

Mr. Sol. Gen. Can you remember any thing else?

Mr. Beeston. I remember too, that when *Mr. Bournaby* came first, he was often with him the second, third, and fourth of *May*, I saw him there with *Mr. Bournaby*, and I took particular notice of the friendship between them, which I thought strange between persons that I supposed never saw one another before.

L. C. J. Have you any Questions to ask this man, *Mr. Oates*?

Oates. My Lord, I desire to ask this Gentleman what Religion he is of.

Mr. Beeston. I am a *Roman Catholick*.

Oates. Pray my Lord be pleased to ask him, when he went to *St. Omers*, and when he came away thence, and how long he was Resident there.

Mr. Beeston. I know not exactly what year it was I came, but I stayed the greatest part of seven years there.

Oates. Pray my Lord ask him, what Jesuits went from *St. Omers* to the Consult of April 78.

Mr. Beeston. There was some that past by, I did not take much notice of them.

Oates. Pray my Lord ask him, who it was that informed him of that Consult.

Mr. Beeston. I do not know who particularly, I only heard of such a Rumour.

Mr. Att. Gen. Was it an extraordinary thing?

Mr. Beeston. No, It was but an ordinary thing as they used to have once in three years.

Oates. You say you saw me every day there.

L. C. J. He says he believes he might, because you were Reader in his stead, and if you had been absent, he must have been called upon to Read, which he was not, he says.

Oates. Very well my Lord, I desire you would ask him, whether he does not remember such a thing as an eight days Exercise, wherein those that perform the Exercise, are separated from all company during that time.

Mr. Beeston. Yes, my Lord, I do remember that he was once in that eight days Exercise, and during the eight days I saw him walk in the Garden several times.

Oates. Pray my Lord, ask him if he were an Evidence at the Tryal of the Five Jesuits, or *Langborn*, and whether he gave this Evidence long ago.

Mr. Beeston. No, I did not, I was not there.

Oates. Pray my Lord, ask him what Rewards he is to have.

L. C. J. Are you to have any Reward for your Testimony, *Mr. Beeston*?

Mr. Beeston. No, my Lord.

Oates. My Lord, I desire to know of him, how he comes to be pickt out among the rest of the Students there, to come here, and be an Evidence in this Cause.

Mr. Beeston. My Lord, I was subpoena'd by His Majesty, if I knew any thing of this matter, that I should come here and testify my knowledge.

Oates. Pray by what name did he go by at *St. Omers*?

Mr. Beeston. By the name of *Beeston*, as I do now.

Oates. And is that his own name? *Mr. Beeston.* Yes, my Lord.

L. C. J. Pray go on *Mr. Attorney*.

Mr. Att. Gen. Swear *Clement Smith*, (which was done.)

Mr. Sol. Gen. Pray Sir, were you at *St. Omers* in the year 77 and 78?

Mr. Smith. Yes, I was.

Mr. Sol. Gen. Do you remember *Mr. Oates* there at that time?

Mr. Smith. Yes, I was in the same Class with him.

Mr. Att. Gen. Pray when came he thither, and how long did he stay there?

Mr. Smith. He came a little before *Christmas*, and stayed till *June*.

Mr. Att. Gen. Was he not absent at any time all that while?

Mr. Smith. No, he was not, except one day.

Mr. Att. Gen. Do you remember *Watson's* business, his going thither in *January*?

Mr. Smith. He told me of it, and that he design'd to ask the Rector leave to go.

L. C. J. Was he absent any other time till *June*?

Mr. Smith. No, my Lord, for I will tell you, I every day Dined with him, eat

a Collation with him in the Afternoon, and Breakfast and Supp'd in the same Refectory, during all that time, except when he or I was in the Infirmary.

L. C. J. When ever he was absent, he was in the Infirmary, was he?

Mr. Smith. Yes, my Lord.

L. C. J. Did not he miss his Breakfast at any time all that while?

Mr. Smith. If he did, we us'd to enquire after him.

Mr. Att. Gen. Pray when were you in the Infirmary?

Mr. Smith. The 21th of *April* New Style; I fell sick, and I remained sick till *May* the 7th, and was in the Infirmary, and then he visited me almost daily, or every other day in the Infirmary; and on the 2d of *May* I saw him and one *Mr. Bournaby* together, and on the day *Mr. Poole* departed, which I take to be the fifth of *May*; *Mr. Oates* came to me as soon as he was gone out of the House, and told me of it; and he did the same too that day that *Mr. Hillsley* went away, which was the 24th of *April* New Style.

Mr. Att. Gen. Was not he in the Infirmary himself?

Mr. Smith. Yes, during this time he came into the Infirmary, and was sick there.

Mr. Att. Gen. When was that?

Mr. Smith. A day or two after *Mr. Hillsley* went away, and continued there two or three days, and I remember it particularly by this circumstance, that he proposed a question to the Physician about himself in Latine, and spoke a Solleciſm, which was this, he said, *Si placet Dominatio vestra.* *Oates.* Who did say so?

L. C. J. You did, he says, speak that false Latine to the Doctor.

Oates. That's false Latine indeed.

L. C. J. We know that, but it seems it was your Latine.

Mr. Att. Gen. When came he away from *St. Omers*?

Mr. Smith. About the 20th of *June*, something after the 20th of *June*, as I remember.

L. C. J. Are you sure he was not out of the Colledge so long as to make a Journey to *London*, and back again?

Mr. Smith. No, I am sure he could not without being mis'd; and going to School with him, and eating Dinner and Supper with him constantly alwaies at the same place, I must needs know if he had gone.

Oates. When went I away from *St. Omers* does he say?

Mr. Smith. After the 20th of *June* 78.

L. C. J. He is your old Acquaintance and Schoolfellow, *Mr. Oates*; you visited him when he was sick. *Oates.* What Religion is this Gentleman of, my Lord, I would know? *Mr. Smith.* I am a *Roman* Catholick.

Oates. I desire your Lordship to ask him how long he liv'd at *St. Omers*?

Mr. Smith. Above six years. *Oates.* Pray ask him, when he came away.

Mr. Smith. A little after *Dr. Oates* came away.

Oates. Did he come directly for *England*? *Mr. Smith.* No, I did not.

Oates. Whither did he go then? *Mr. Smith.* I went about a little.—

Oates. Where, my Lord? *Mr. Smith.* I went about to take some Turns in the Low-Countrys; I went to *Watton*, and up and down.

Oates. He is a Jesuit my Lord, and that the World knows, and must know.

L. C. J. I know nothing of it, I do assure you.

Oates. Pray my Lord be pleased to ask him, whether he did not hear of a Consult of Jesuits in *April* 78. and what Jesuits went from *St. Omers* to it.

Mr. Smith. I heard it as a Rumour in the Colledge, that there was to be a Congregation at that time, but I know not where particularly it was to be kept; but I know that then there pass'd by *St. Omers* two Fathers, *Mr. Marsh*, and *Mr. Williams*.

Oates. What were they? *Mr. Smith.* Jesuits.

L. C. J. He told you they were Fathers?

Mr. Att. Gen. Pray was it an extraordinary, or an ordinary Meeting that?

Mr. Smith. They us'd to say in the Colledge, that it was an ordinary thing to have such a Congregation every three years.

Mr. Sol. Gen. Pray swear *Mr. Edward Price*, (which was done.)

Mr. Att. Gen. Pray *Mr. Price* will you give my Lord and the Gentlemen of the Jury an account whether you were at *St. Omers* in the year 77, and 78.

Mr. Price. I was there both these years.

Mr. Att. Gen. Do you remember *Mr. Oates* there?

Mr.

Mr. Price. Yes my Lord, I do.

Mr. Att. Gen. When did he come? and when did he go away?

Mr. Price. He came there about *December 77.* and he continued there till *June 78.*

Mr. Att. Gen. Was he absent from *St. Omers* at any time all that while?

Mr. Price. Never, that I know of, but one night at *Watton*, when he came back the following day, and that was in *January.*

Mr. Att. Gen. Do you remember particularly that he was there in *April* and *May 78?*

Mr. Price. I remember Mr. *Hilsley* according to the foreign Style left *St. Omers* upon the 24th of *April 78.* I was told the following day that Mr. *Oates* went into the Infirmary, which was *Monday* the 25th, and stayed there a day or two, and upon *Wednesday* the 27th I saw him going to *Mafs*; then upon the *Sunday* following, which was the first of *May* New Style, came Mr. *Bournaby* to *St. Omers*, and I saw him in *Oates's* company that day, and I saw him on *Monday* again the second of *May* in his company; I saw him the third of *May* at the Table, which I particularly remember, because it was the Feast of the Invention of the Holy Cross; the fourth of *May* I have no Circumstance to remember him by; but the fifth of *May* I saw him take his leave of Mr. *Poole*, and I likewise saw him the 10th or 11th of *May* at another of our Actions, wherein Mr. *Watson* had a quarrel with him, and beat him; I should have mis'd him above any other man, because he was so noted a man.

Mr. Att. Gen. What was he noted for; for any thing else but his distinct place in the Refectory?

Mr. Price. Yes, he was very absurd, and alwaies quarrelling with the Students there.

L. C. J. Do you remember him Read in the Sodality?

Mr. Price. I was not of that Bench that he was of.

Oates. My Lord, I desire to know what this Gentlemans Religion is.

L. C. J. What Religion are you of Sir?

Mr. Price. If your Lordship please to know, I am a *Roman* Catholick.

Oates. My Lord, I desire to ask him when he went first to *St. Omers*, and when he came away.

Mr. Price. I was six years at *St. Omers*; I was there a twelve month before Mr. *Oates* came thither, and came from thence about three years ago.

Oates. Did you come directly to *England* when you came away?

Mr. Price. My Lord, I went to *Leige* to study Philosophy, and I live now with my Father at home.

Oates. My Lord, I desire to ask him whether he did not hear of a Consult to be held in *April 78.*

Mr. Price. I did hear there was a Congregation which was their usual Triennial meeting, and particularly I remember about that time there came Mr. *Williams*, and Mr. *Marsh*, and it was reported that they were going to the Congregation.

Oates. I desire to ask him if he was not a Witness at the Tryal of the five Jesuits, or at the Tryal of *Langborne.*

Mr. Price. No, I was not.

Oates. Pray what name did he go by at *St. Omers*?

Mr. Price. By my own name, which is *Edward Price.*

Mr. Sol. Gen. Then swear the next, that is Mr. *James Doddington.*

Mr. Att. Gen. Pray Sir were you at *St. Omers* in the year 77 and 78?

Mr. Doddington. Yes Sir, I was.

Mr. Att. Gen. Did you know that Gentleman Mr. *Oates* there?

Mr. Doddington. I know him very well.

Mr. Att. Gen. What time did he come to *St. Omers*, and how long did he stay there?

Mr. Doddington. He came about *Christmas*, and stayed about the latter end of *June.*

Mr. Att. Gen. How do you remember he stayed there so long, what Circumstances have you to make you remember it?

Mr. Doddington. In general his Conversation and Canting Stories after Dinner and Supper, and times of Recreation, made him so remarkable, that no body could mis him all the time he was there.

Mr. Att. Gen. Did you observe him to be in the Hall, or at the Exercises?

Mr. Doddington. Yes, I saw him several times.

Mr. Sol. Gen. Do you remember the time Mr. *Hilsley* went away?

Mr. Doddington. Yes, it was a little after *Easter*, and I do remember that two or three days after I went into the Infirmary, and saw Mr. *Oates* there, and had discourses with him.

Mr. Att. Gen. Do you remember Mr. *Bournaby's* coming to *St. Omers*, and when was it?

Mr. Doddington. Yes, the first of *May* Mr. *Bournaby* came to *St. Omers*, and the next day I saw *Oates* with him, and for ten or twelve daies successively they were in one anothers company, and then of a sudden the Correspondence broke off, but I know not upon what account.

L. C. J. Was he Reader there as you remember?

Mr. Doddington. I do remember he did Read in the Sodality.

L. C. J. When was that?

Mr. Doddington. I remember he Read at *Shrovetide*.

Oates. Did you hear me Read there?

Mr. Doddington. Yes that I did Sir.

Oates. Were you of the Sodality?

Mr. Doddington. Yes, I was Sir.

Mr. Att. Gen. Do you remember the time when he came away from *St. Omers*?

Mr. Doddington. It was about *Midsummer*, my Lord.

Mr. Att. Gen. Were you out of the Colledge your self at any time when he was there?

Mr. Doddington. No, I was not.

L. C. J. Come, I will ask you a plain Question; Was he so long at any time out of the Colledge as to come to *London* and stay here two or three daies, and come back again?

Mr. Doddington. My Lord, he was so Remarkable by his Stories and Ridiculous Actions, and falling out with every one of the Colledge, that if he had been absent, we must needs have missed him.

L. C. J. Did you miss him at any time?

Mr. Doddington. My Lord, I never miss'd him but one day.

L. C. J. When was that?

Mr. Doddington. They said he was gone to *Watton*.

L. C. J. What time was that?

Mr. Doddington. In *January*, about six weeks after he came first.

Oates. Pray my Lord, ask him what Religion he is of.

Mr. Doddington. I am a *Roman Catholick*.

Oats. And a Scholar of *St. Omers*.

L. C. J. Make your Remarks by and by.

Oates. Pray my Lord, ask him what Name he went by at *St. Omers*.

Mr. Doddington. By the Name of *Hollis*, my Lord.

Oates. Pray my Lord ask him, how long he was Resident there.

Mr. Doddington. Near upon five years.

Oates. Pray my Lord, ask him the occasion of his coming over at first.

Mr. Doddington. I had business in *England*, and I had a mind to see my Friends.

Oates. Pray my Lord, ask him whether he did not pretend at the five Jesuits Tryal, that he came over upon the King's Proclamation, to call home those that were in the Seminaries.

L. C. J. Were you at the Tryal of the five Jesuits?

Mr. Doddington. Yes, I was; but if I came over upon the King's Proclamation, what hurt is there in that?

L. C. J. None at all, as I know of.

Oates. Pray my Lord, ask him whether he did return again to *St. Omers* or no.

Mr. Doddington. My Lord, I pass'd by *St. Omers* once, but I never stay'd a day in the Colledge since.

Oates. Pray my Lord be pleas'd to ask him, whether he ever heard of a Consult of the Jesuits in *April* 78.

Mr. Doddington. I did hear of a Congregation.

Oates. Call it a Consult or a Congregation, it is all one.

L. C. J. He says he did hear of it.

Oats. Ask him by whom he did hear of it.

Mr. Doddington. I saw the Provincial when he came back from *England*.

Oates. Who was that Provincial, what was his Name?

Mr. Doddington. Mr. *Whitebread*.

Oates. Was not Mr. *Whitebread* a Resident sometimes at *St. Omers*?

Mr. Doddington. Yes a while he was.

Oates. Pray was not that House under his Government?

Mr.

Mr. *Doddington*. My Lord, I can give no account of that, but it is generally under the Government of the Rector of *St. Omers*.

Mr. *Hanfeys*. Pray Sir, give me leave to ask you one Question Mr. *Oates* speaks of Mr. *Whitebread*; Pray how did Mr. *Whitebread* use *Oates*, when he came back from *England*?

Mr. *Doddington*. I heard say, he did check him very severely for his many mis-carriages.

L. C. J. He heard it, he says, but he does not know it of his own knowledge; that is no Evidence.

Mr. *Sol. Gen.* Pray swear Mr. *William Gerrard*, (which was done.)

Mr. *Att. Gen.* Were you at *St. Omers*, Mr. *Gerrard*, in the years 77. and 78?

Mr. *Gerrard*. Yes, I was.

Mr. *Att. Gen.* Did you know Mr. *Oates* there?

Mr. *Gerrard*. Where is he Sir?

Mr. *Att. Gen.* There he is in that corner, do you know him?

Mr. *Gerrard*. Yes.

Mr. *Att. Gen.* When came he to *St. Omers*?

Mr. *Gerrard*. He came to *St. Omers* in the year of our Lord 77. and he went away in *June* 78.

Mr. *Att. Gen.* Was he there all the time?

Mr. *Gerrard*. I never remembred to have mis'd him, but only once when he went to *Watton* for a night.

Mr. *Att. Gen.* By what Tokens do you remember him at any time there in *April* or *May*?

Mr. *Gerrard*. The second of *May* we had a Play, and he was there then, and I remember the 26th of *May* he was confirmed, and so was I, it being *St. Augustin's* day, and in the Refectory he had a Table by himself, and I used alwaies at meal-times to pass by that Table and make a Bow to the Fathers above before I sat down at Table; and I do not remember that ever he was absent, and if he had, I should surely have mis'd him.

L. C. J. When was *St. Augustin's* day, that you say you and he were confirm'd?

Mr. *Gerrard*. It was the 26th of *May*.

Mr. *Att. Gen.* Do you remember him in *April* there?

Mr. *Gerrard*. I cannot tell any particular circumstance in *April*, but I do not remember to have mis'd him at all in *April*.

Mr. *Sol. Gen.* But you saw him there the second of *May*, you say.

Mr. *Gerrard*. Yes, I did so, and the 26th of *May*.

Oates. The 26th of *May* Old Style, I was there my Lord.

L. C. J. Ay, but he says the 26th of *May* New Style.

Oates. I was not there then, my Lord.

L. C. J. He swears you were.

Mr. *Sol. Gen.* Pray between the second and 27th of *May* New Style was he absent from *St. Omers* at any time?

Mr. *Gerrard*. I never remember to have mis'd him at all in that time.

Mr. *Att. Gen.* Do you remember Mr. *Pool's* and Mr. *Hilley's* going away?

Mr. *Gerrard*. I do remember Mr. *Hilley's* and Mr. *Pool's* going away; but I cannot speak particularly and exactly what time that was.

L. C. J. Is it usual to have Scholars go away without being mis'd?

Mr. *Gerrard*. No, my Lord, and he had a particular place by himself.

Oates. Pray ask him, my Lord, how he came to know that I went away in *June*?

Mr. *Gerrard*. We mis'd him in his place then, and 'twas discoursed of all over the Town, that when the Provincial came, he was to be dismiss'd.

Oates. I desire to know what Religion this Gentleman is of.

Mr. *Gerrard*. My Lord, I am a *Roman Catholic*.

Oates. Pray my Lord, ask him what Name he went by at *St. Omers*.

Mr. *Gerrard*. By the Name of *William Clovell*.

Oates. Pray my Lord ask him, when he went to *St. Omers*, and how long he was Resident there. Mr. *Gerrard*. I came there about two years before he came, and was there about two years after he went away.

Oates. Pray my Lord ask him, whether he came directly for *England* when he left *St. Omers*.

Mr. *Gerrard*. No, my Lord, I was four years in *Low Germany* and *France*, and came into *England* the last year.

Oates

Oates. Pray Sir, were you a Witness at the five Jesuits Tryal, or at *Langborns* Tryal?

Mr. Gerrard. No, I was not; I came but last year to *England*, I tell you.

Oates. Pray my Lord ask this Gentleman, whether he did not know or hear of a Consult of Jesuits that was to be in *April* 78. and from whom he heard it.

Mr. Gerrard. My Lord, I know it is the Custom of the Fathers of that Order to have a Congregation once in three years, about the Affairs of their Society, but then no Person is admitted to be one of that Congregation, but them that have been eighteen years Jesuits, and he not having been so much as a Novice, I know not how, if he had been here, he could have been present at it.

L. C. J. He says, that there us'd to be a Triennial Congregation for the Business of the Society, but you could not be present at it, because you had not been eighteen years a Jesuit.

Mr. Gerrard. *An. decimo octavo Currente*, is the word of the Rule.

Oates. Pray my Lord ask him this Question, how he knows that to be the Rule.

Mr. Gerrard. You or any man may Read them in their Books.

L. C. J. It seems he has Read them, and he says, you must pass through eighteen years before you be admitted of the Congregation, and he believes you were not there, for you were not capable of so much as a Noviceship.

Oates. I desire your Lordship to ask him, whether or no he heard me Read in the Sodality.

Mr. Gerrard. Yes, I did.

Oates. Were you of the Sodality?

Mr. Gerrard. Yes, I was.

Oates. Pray my Lord ask him, what Oaths are there taken before they be admitted into the Sodality.

L. C. J. No, by no means, I will not do it.

Oates. Why my Lord, may not I ask it, to shew what kind of men these are?

L. C. J. No indeed, it is but the same Question again, that I told you before is not to be asked, for it may make him liable to a Penalty; if you come to be a Witness, no man should ask you a Question that might make you obnoxious to a Penalty, no more must you ask them any such Questions.

Oates. I have done with him my Lord.

Mr. Sol. Gen. Where is my Lord *Gerrard* of *Bromeley*?

Lord Gerrard. Here I am Sir.

Mr. Att. Gen. Pray my Lord, do you remember *Mr. Oates* at *St. Omers* in the year 77. and 78?

Lord Gerrard. He was disguised in another Habit, and another colour'd Perriwig, the Hair was blacker than that he has on now, but I remember his Face very well, and know him again by the Tone of his Voice, which was very remarkable, but I never remember that he was absent from *St. Omers* after he came thither. I remember his coming exactly, which was about *Christmas*; nor did I ever hear that he was absent till *June* 78. New Style, when he went away.

Mr. Sol. Gen. Do you remember, my Lord, when *Mr. Bournaby* came?

Lord Gerrard. I do remember *Mr. Bournaby's* coming, but what time it was I cannot exactly tell.

L. C. J. Is my Lord *Gerrard* sworn?

Mr. Sol. Gen. I think so.

Lord Gerrard. No, my Lord, I am not sworn.

L. C. J. You must be sworn my Lord (which was done) now if you be pleased to ask my Lord any Questions, do.

Mr. Att. Gen. My Lord, we desire to know of my Lord *Gerrard* of *Bromeley*, whether he knew *Mr. Oates* at *St. Omers*.

Lord Gerrard. My Lord, I remember he came in 77. as I take it, it was the beginning of *December*, and never heard he was absent or mis'd till *June* 78. I remember particularly upon the 25th of *March*, there was a new Lector to be Reader of the Sodality, and *Mr. Oates* desiring it, he was appointed to Read; I was there my self, and I never mis'd him; I heard him Read, that I do remember several *Sundays* and *Holidays*, and never knew him absent any one; however, for five or six weeks he was constant at Reading, and I can the better remember it, because he had a particular Cant in his Tone, which all men may know, which ever conversed with him.

Mr. Sol. Gen. If *Oates* please to ask my Lord *Gerrard* any Questions, he may.

Lord

Lord Gerrard. Pray my Lord let me speak a word or two more.

L. C. J. Ay my Lord, pray go on.

Lord Gerrard. I remember I heard Mr. Oates was at the Confirmation which was upon St. Austins day, there was a Confirmation by a Catholick Bishop about the 26 of May New Style, I Remember I heard Mr. Oates was there, and the Bishop did particularly note him as a person of elder years than the rest of the Students.

L. C. J. Do you know this my Lord, of your own knowledge?

Lord Gerrard. I do my Lord.

L. C. J. Because you say you heard it.

Lord Gerrard. My Lord further I remember this, when the News of the Plot being discovered by Oates, came to St. Omers, where he went by the name of Sampson Lucy, and sometimes Titus Ambrosius, it was wondered by all the Scholars that knew him there, how he came to be so impudent to pretend that he was at such a Consult the 24th of April 78. when all the Colledge saw him every day in April and May at St. Omers, as much as a man can be seen in a Family, and was never known to be absent so much as one day; besides my Lord, 'tis a thing as generally noted as a thing can be, that no Scholar goes away from, or comes to the Colledge of St. Omers, but it is particularly known to the whole house; It is the Common News and Discourse as much as any new occurrences is here about the Town.

Mr. Sol. Gen. If Oates be pleased to ask him any questions, he may.

Oates. My Lord, I desire this Noble Lord may be ask'd a question or two; I do not Remember his Lordship there.

Lord Gerrard. I do very well remember the man by particular Remarques.

Oates. Yes my Lord, you have occasion to remember me, and so have your whole Party. Pray my Lord let my Lord Gerrard be ask'd what name his Lordship went by at St. Omers.

Lord Gerrard. Mr. Oates. I am not difficult in telling the name I went by there. It was Clovel.

Oates. Pray my Lord I desire to know what Religion his Lordship is of.

Lord Gerrard. Neither am I asham'd to own my Religion. Mr. Oates. I am a Catholick.

Oates. Pray my Lord, If you please, because this Noble Lord pretends he heard me Read, I desire to know of him whether he was of the Sodality.

Lord Gerrard. I remember you particularly by your voice, and that is one thing that particularly brings you to my Remembrance now.

Oates. Pray ask this Noble Lord, if he was a witness at the Jesuites Tryal.

Lord Gerrard. No, I was never a witness in my Life before; By the oath that I have taken.

L. C. J. 'Tis very well my Lord.

Oates. Pray my Lord ask this Nobleman, whether he did not know of a Consult in April 78. and from whom he knew it.

Lord Gerrard. No, I know of none, nor heard of any but by Rumour after that you pretended to discover such a thing.

Oates. Did his Lordship see me every day, does he say.

Lord Gerrard. I cannot say every day, but I saw him at the Refectory generally, and I remember it particularly, because he sat at a Table by himself; I believe he could not be absent without being miss'd, because we knew every person that came in and went out.

Mr. Sol. Gen. Then Swear Mr. Samuel Morgan (which was done.)

Mr. Att. Gen. Mr. Morgan were you at St. Omers in 77 and 78?

Mr. Morgan. I was my Lord.

Mr. Att. Gen. Did you observe Mr. Oates to be there at that time?

Mr. Morgan. Yes I did.

Mr. Att. Gen. Pray give an account when he came, and when he went away.

Mr. Morgan. He came 14 or 15 daies before Christmas as I Remember, and went away in June.

Mr. Att. Gen. What Christmas do you mean, Mr. Morgan?

Mr. Morgan. Christmas 77.

Mr. Att. Gen. And when did he go away?

Mr. Morgan. In June 78: he went away.

Mr. Att. Gen. Was he absent any time during that space?

H

Mr.

Mr. Morgan. My Lord, I know not that he was ever absent above one night in all that time.

Mr. Att. Gen. What time was that one night?

Mr. Morgan. Truly my Lord I cannot tell what month it was very exactly.

Mr. Att. Gen. Whither was he gone that night?

Mr. Morgan. He went to *Watton*, three miles off from *St. Omers*.

Mr. Att. Gen. Do you remember the time when Mr. *Hilsley* came away,nd when Mr. *Bournaby* came to *St. Omers*?

Mr. Morgan. Yes, I do my Lord, very well.

Mr. Sol. Gen. Was Mr. *Oates* there when *Hilsley* went away?

Mr. Morgan. He was there then.

Mr. Sol. Gen. Was he there when Mr. *Bournaby* came?

Mr. Morgan. He was there when Mr. *Bournaby* came thither.

Mr. Sol. Gen. Was he there when Mr. *Poole* came away?

Mr. Morgan. Yes my Lord he was so.

Mr. Sol. Gen. I will ask you this short question, do you believe in your Conscience that he was absent any particular time all that while?

Mr. Morgan. No my Lord, I have no reason to believe so.

Oates. Pray my Lord ask him what Religion he is of.

Mr. Morgan. I am of the Church of *England*.

Oates. When were you reconciled to the Church of *England*?

Mr. Morgan. Five years since.

Oates. I desire to know of him, what induc'd him to be reconciled to the Church of *England*.

L. C. J. That is not a pertinent question, nor fit to be asked. Is he to give an account of his faith here?

Mr. Justice *Withens*. It seems Mr. *Oates* is angry when the witnesses are Papists, and when they are Protestants too.

Oates. When was it that I came to *St. Omers* do you say?

Mr. Morgan. You came thither in *December 77*.

L. C. J. So he told you before, why do you repeat things over and over again?

Oates. When was it I went away from thence say you?

Mr. Morgan. In *June 78*.

Mr. Sol. Gen. Do you remember 24th of *April* Old Style that year?

Mr. Morgan. Yes my Lord, I do remember it very well.

Mr. Sol. Gen. Do you remember him to be at *St. Omers* that day?

Mr. Morgan. Yes, I do, by this circumstance.

Mr. Sol. Gen. Ay, pray tell my Lord and the Jury that circumstance, how you come to remember it.

Mr. Morgan. We had the Tryal of *Ireland* brought over to us soon after it was Printed, and there we found mention'd that Mr. *Oates* had deposed that the 24th of *April 78*. there was a Consult of the Jesuits, and they met at the White Horse Tavern, where they resolved to kill the King, and he carried that Resolution from Chamber to Chamber, and he did nominate the day, and having it then fresh in my memory, though he swore that he was the 24th of *April* Old Style in *London* at that Consult, yet I found him to be at *St. Omers* by a very particular circumstance: My Lord, I was playing at Ball that day, and struck it over into a Court, into which I could not get over my self, but I saw Mr. *Oates* then walking in the Court, and I came and borrowed his Key, and so went in, and there passed between us words of friendship.

L. C. J. When was this, do you say?

Mr. Morgan. The 24th of *April 78*. Old Style.

Oates. I desire to let his Orders be seen.

L. C. J. No, he shall not be put to shew any such thing.

Oates. He is a Minister of the Church of *England*, my Lord.

L. C. J. Sir, we tell you we will not do it, what ado is here with your impertinent Questions, have not I told you you shall not ensnare the Witnesses?

Oates. He was a going to pull out his Orders himself.

Mr. Att. Gen. My Lord, Mr. *Oates* may see them if he will, he is a Benefic'd Minister of the Church of *England*.

L. C. J. Does he mean those Orders?

Mr. Att. Gen. Yes, he does, and here they are.

L. C.

L. C. J. Let him see them, (which was done.)

Oates. My Lord, I desire to know of this Gentleman, what Name he went by at St. Omers.

Mr. Morgan. By the name of *Morgan*.

Mr. Sol. Gen. Swear Mr. Arundel, (which was done.)

Mr. Att. Gen. Pray Sir, will you give an account in short whether you were at St. Omers in 77. and 78. and the time when Oates came thither, and when he went away.

Mr. Arundel. I was there when Dr. Oates came, and when he went away.

Mr. Att. Gen. When was that?

Mr. Arundel. Sir, I cannot be positive to the time exactly; but I think it was about January 77. that he came there, and he went away about June 78. I cannot be positive to the time exactly.

L. C. J. He does not particularly remember the time, but he thinks it was about January 77. he came thither.

Mr. Arundel. I beg your Lordship pardon, he came there about December.

Mr. Att. Gen. Do you remember any particular circumstances that you saw him there at any particular time?

Mr. Arundel. Upon St. Augustines day I saw him Confirm'd.

Mr. Sol. Gen. What day is that?

Mr. Arundel. The 26th of May according to the Forreign Account.

L. C. J. Did you know him there then?

Mr. Arundel. Yes my Lord, I say I saw him Confirm'd.

Mr. Sol. Gen. Do you remember Mr. Hilsley's going away?

Mr. Arundel. I do not remember the time particularly, but I do remember Mr. Oates was actually there then.

Mr. Sol. Gen. Do you remember when Mr. Bournaby came to St. Omers?

Mr. Arundel. No, I do not remember the time, but he was there then too.

Mr. Sol. Gen. Do you remember when Mr. Poole went away?

Mr. Arundel. No, I cannot tell what day it was, but he was there at the time of his going away, upon my Oath.

Mr. Sol. Gen. Can you tell any other particular time? Mr. Arundel. The 11th of May New Style there was an Action exhibited in the Colledge.

L. C. J. Was Oates there then?

Mr. Arundel. To the best of my remembrance he was.

L. C. J. He does not affirm any particular, but only speaks in general.

Oates. Are you a Protestant too Sir? Mr. Arundel. No, Doctor, I am not.

Oates. Pray my Lord, I desire to know what Religion he is of.

Mr. Arundel. I am a Papist my Lord.

Oates. Pray ask him by what Name he went at St. Omers.

Mr. Arundel. I believe you know that as well as I Doctor Oates.

L. C. J. You must answer his Question.

Mr. Arundel. I went by the Name of *Spencer* my Lord. Oates. I do remember him my Lord, to have been there. Mr. Arundel. Sir, your humble Servant.

Oates. It is almost seven years ago, my Lord, and I may not so well remember them as they do me, but I desire to know when he went to St. Omers first, and how long he was there.

Mr. Arundel. I was there seven years.

Oates. Pray my Lord, ask him whether he was of the Sodality.

Mr. Arundel. Yes my Lord, I was.

L. C. J. Was he Reader of the Sodality?

Mr. Arundel. Yes my Lord, in my time he was Reader.

Oates. Then my Lord I desire to ask him, whether ever he heard of a Consult of the Jesuits, that was to be held in England in April 78. and from whom he heard it.

Mr. Arundel. Yes my Lord, I did hear in the Colledge of a Congregation.

Mr. Sol. Gen. Was that an extraordinary one, or of course?

Mr. Arundel. It was only of course, as they told us, once in three years they have one. Oates. Pray my Lord be pleased to ask this Gentleman what Studies he followed at St. Omers.

L. C. J. He was of the Sodality, he says.

Mr. Arundel. My Lord, I studied to the end of Rhetrick.

Oates. My Lord, I desire to know whether when he came from St. Omers, he did come directly for England.

Mr.

Mr. *Arundel*. No, I went from thence to *Paris*, my Lord.

Mr. *Sol. Gen.* Swear Mr. *Christopher Turberville*, (which was done.)

Mr. *Att. Gen.* Pray Mr. *Turberville*, will you acquaint my Lord and the Jury whether you were with Mr. *Oates* at *St. Omers*, and when.

Mr. *Turberville*. Yes my Lord; he went by the Name of *Sampson Lucy* there, and there I saw him, and there I was with him all the time; I was there before him, and I remained there after he went away.

Mr. *Att. Gen.* What time did he come to *St. Omers*, I pray you?

Mr. *Turberville*. Before *Christmas*.

L. C. J. In what year? Mr. *Turberville*. In the year 77.

Mr. *Att. Gen.* What time was it he went away? Mr. *Turberville*. In June 78.

L. C. J. Were you there all that while at *St. Omers*? Mr. *Turberville*. Yes, was.

L. C. J. And to the best of your apprehension, you think he was there all that while.

Mr. *Turberville*. Yes, I do so my Lord.

Mr. *Sol. Gen.* Can you speak of any particular daies you can remember?

Mr. *Turberville*. Yes, I do remember him upon the 4th, 5th, and 6th of *May*, for two or three daies together; for my Lord, I do remember this circumstance, Mr. *Foole* about that time went away, and that very day Mr. *Foole* went from the Colledge, I chang'd my Lodging, and went into his Lodging, and that day I saw Doctor *Oates* in the Chamber, and by the Chamber door.

Mr. *Att. Gen.* Did he continue in the Colledge from the time he came about *Christmas*, to the time he went away in June? Mr. *Turberville*. Yes he did, all the while except it were one night in *January* when he went to *Watton*.

L. C. J. What time in June did he go away?

Mr. *Turberville*. I am not positive, but I am morally sure he went away the 23th of June, as near as I can remember.

Oates. I was there in June, that is very well known.

L. C. J. What do you remember of his Reading in the Colledge?

Mr. *Turberville*. I do remember he was Reader there on *Sundays* and *Holidays* for a great while; I cannot swear upon what *Sunday* he began, but he left off the *Sunday* before he went away.

L. C. J. As near as you can remember, when did he begin to Read?

Mr. *Turberville*. It was the beginning of *April*, or latter end of *March*, I cannot justly swear which it was. Mr. *Molloy*. Did he Read on *Holidays* as well as *Sundays*?

Mr. *Turberville*. Yes, he did. *Oates*. I must ask this Gentleman one Question, if your Lordship please, and that is this, what Name he went by at *St. Omers*.

Mr. *Turberville*. I went there by the name of *Farmer*.

Oates. Pray you my Lord, ask him what Religion he is of.

Mr. *Turberville*. It is a hard Question to answer that. *Oates*. Nay my Lord, I desire to know what is his Religion. Mr. *Turberville*. I am my Lord, a *Roman Catholic*.

Oates. Ask him when he went to *St. Omers* first, and how long he stayed there.

Mr. *Turberville*. I was there seven years very near. *Oates*. I desire to know whether he did come away directly to *England* when he came from *St. Omers*.

Mr. *Turberville*. No, my Lord, I went into *Italy*.

Oates. Pray you my Lord, I desire to know whether he did go to *Rome*.

L. C. J. What if he did, what then? that is not at all to the purpose, he went into *Italy*. *Oates*. Pray my Lord, be pleased to ask him this Question further, was he a Witness on the behalf of the five Jesuits, or of *Langborne* at their Tryals.

Mr. *Turberville*. No, my Lord, I was not. *Oates*. Pray my Lord be pleased to ask him then what Reward he has been promised, or is to have for giving this Evidence.

Mr. *Turberville*. None at all, my Lord.

Oates. Pray my Lord ask him, whether or no he heard of any Consult of the Jesuits in *April* 78. and from whom.

Mr. *Turberville*. There was a Congregation, as I heard, but I do not remember that any of the Fathers went from the Colledge to it; several came by there, and lodged there as they went, and as they came back.

Oates. Pray my Lord ask him how he came here to be a Witness in this Cause.

Mr. *Turberville*. I was *subpœna'd*. *Oates*. Who serv'd the *Subpœna* upon him?

Mr. *Turberville*. The Managers; it was sent to me by the King's Council, I suppose; a man brought it to me.

L. C. J. 'Tis no matter who brought it you, you were *subpœna'd*, that's enough.

Mr.

Mr. Sol. Gen. Swear Mr. *Anthony Turberville*, (which was done.)

Mr. Att. Gen. Were you at *St. Omers* in 77, and 78?

Mr. *A. Turberville*. Yes, my Lord, I was.

Mr. Att. Gen. Did you observe the Defendant *Mr. Oates* there at that time?

Mr. *A. Turberville*. Yes, I observ'd him all the while he was there.

Mr. Att. Gen. When did he come to *St. Omers*?

Mr. *A. Turberville*. In the year 77, about *Christmas*.

Mr. Att. Gen. When went he away?

Mr. *A. Turberville*. A Gentleman who was formerly sworn, (*Mr. Thornton*) and I were at Breakfast with him the self-same time when he went away.

L. C. J. When was that?

Mr. *A. Turberville*. I suppose about the latter-end of *June* 78.

Mr. Att. Gen. Did you observe him to be there in *April* or *May* 78?

Mr. *A. Turberville*. He was not absent above one night in *January* that I can remember from his first coming thither, for it was impossible he should be absent and not mis'd, he sitting at a distinct Table by himself, and his Conversation being so remarkable for a great many ridiculous actions, and a great many pretty jests that he us'd, so that he was like a silly person, as I may call him, that us'd to make sport, and no body could be mis'd so soon as he: And I saw a little Boy in the Colledge bear him up and down with a Foxes Tail. Indeed, my Lord, all his actions were very remarkable: I see him very much abusive to persons that liv'd with him in the Colledge; and *Mr. Oates* could not be a person of this note, but all the world must take notice of him, and all that knew him must mis him, if he were away.

L. C. J. You hear him, *Mr. Oates*; he gives you a particular Character; he says you were a very notorious person in many instances.

Mr. *A. Turberville*. My Lord, I was a person then the youngest in the whole Company, and *Mr. Oates* being very abusive to me, I did what became me to right my self upon him.

Oates. Pray, my Lord, be pleas'd to ask this Gentleman what the Name was he went by at *St. Omers*?

Mr. *A. Turberville*. By my Grandmothers Name, which was *Farmer*.

L. C. J. Do you remember the time when *Mr. Hildesley* went away from *St. Omers*?

Mr. *A. Turberville*. He went away upon a *Sunday*. *Mr. Oates* remain'd afterwards there: I am positive I saw him several days after.

L. C. J. Do you remember when *Mr. Burnaby* came thither?

Mr. *A. Turberville*. Yes, my Lord; and *Mr. Oates* was there then.

L. C. J. Will you ask him any questions? If you are not ready, I will ask him some for you. Come, what Religion are you of?

Mr. *A. Turberville*. I am a *Roman* Catholick, my Lord.

L. C. J. Well, and how long were you at *St. Omers*?

Mr. *A. Turberville*. Six years and upward, my Lord.

L. C. J. When you came away from thence, did you come directly for *England*?

Mr. *A. Turberville*. I took a circumference round.

Oates. My Lord, I do find my Defence is under a very great prejudice.

L. C. J. Why so? because we won't let you ask impertinent questions, or such as may render the Witnesses obnoxious to a Penalty.

Oates. No, my Lord, it is not fit they should, for there is a Turn to be serv'd.

L. C. J. What do you mean by that? Ay, and a good Turn too, if these Witnesses swear true: 'Tis to bring Truth to light, and perjur'd Villains to condign punishment.

Oates. Good my Lord be pleas'd to hear me.

L. C. J. If you behave not your self with that respect to the Court as you ought, pray get you gone. Do you think you shall give such language as this in a Court of Justice?

Oates. My Lord, I did not design—

L. C. J. If you behave your self as you should, you shall have all due regard; but if you flie out into such abusive extravagancies, we'll calm you as you ought to be calm'd.

Oates. I would vindicate my self, I meant it not of the Court.

L. C. J. So you had need. Don't think we sit here to let you asperse the Justice of the Court and of the Nation, as if the Judges sat here to serve a Turn.

Oates. I say these men do come to serve a Turn; but I laid no aspersions upon the Court, nor meant it of them.

L. C. J. Behave your self as you ought, and you shall be heard with all the fairness can be desir'd.

Oates. I did perceive your Lordship and the Court made your selves pleasant with my questions.

L. C. J. I did not make my self pleasant with your questions, but when you ask impertinent ones you must be corrected: You see we do the same thing with them; I find fault with nothing but what is not to the purpose.

Oates. My Lord, I desire it may be observ'd, that these men that come now, are the same Witnesses that appeared at the *Old-Bailey*, and were not believed there.

L. C. J. Observe what you will by and by.

Mr. Att. Gen. No, they are other Men, but they bear the same Testimony indeed.

Mr. Sol. Gen. Swear *Mr. Clavering*, (which was done.)

Mr. Att. Gen. Come, Sir, I'll ask you a short question: Were you at *St. Omers* with *Mr. Oates*, and when?

Mr. Clavering. Yes, I was: I came the 10th. of December 77 to *St. Omers*, he told me he came thither that day too, and I liv'd there all the time that he was there, which was till towards the middle of Summer: I do not remember that he ever was absent, but once at *Watson*.

Mr. Att. Gen. Do you remember *Mr. Burnaby's* coming thither?

Mr. Clavering. *Mr. Oates* was there when *Mr. Burnaby* came there.

Mr. Sol. Gen. Was he there when *Pool* came away?

Mr. Clavering. He was there when *Mr. Pool* went away, and likewise I remember his being there at the time of the Congregation.

Mr. Att. Gen. Pray tell the circumstance how you know he was there then.

Mr. Clavering. There came a Gentleman there that desir'd a Charity of the Students, and I was the person that made the collection for him in the house; and I remember he did ask if there was any one that was a Student there that had been in *Spain*: We told him there was one, and describ'd him, upon which he knew the Gentleman in *Spain*; upon that I told *Mr. Oates* that there was one there that knew him, but he deny'd to come and speak with him. Now I remember that it was the time of the Congregation, for some enquiry made why he got so little money at *Watson*, and it was said it was because the Fathers were gone to the Congregation in *England*: And he ask'd me particularly, What was done at the Congregation in *England*?

L. C. J. Did *Oates* ask that question?

Mr. Clavering. Yes, my Lord, he did.

L. C. J. Whom did he ask it of? *Mr. Clav.* Of me.

L. C. J. When was that?

Mr. Clavering. I think it was about the time of the Congregation.

L. C. J. How came he to enquire after it?

Mr. Clavering. I was talking with him, and said he to me, *Know you nothing what the business is that they are to do at the Congregation?* Said I, *Mr. Lucy*, I know not what they do; I think not much: for I hear at those Meetings many times they stay an hour or two, and have done when they have chosen their Procurator.

Mr. Sol. Gen. And you believe he was there all the time?

Mr. Clavering. Yes, my Lord, I do believe it.

Oates. Pray my Lord let me ask him a question or two.

L. C. J. Ay, what you will.

Oates. What Religion is this Gentleman of?

Mr. Clavering. I am a Catholick!

Oates. A Roman Catholick you mean, I suppose.

Mr. Clavering. Yes, I always understood it so, *Mr. Oates*.

Oates. My Lord, I desire to know how he came not to be produc'd at the Jesuits Tryal, to give this Evidence he gives now.

Mr. Clavering. I can give a very good reason perhaps: I was then, my Lord, in *Germany*.

L. C. J. That's reason good enough of all conscience.

Mr. Just. Witsens.

Mr. *Just. Witbens.* That was a new question, and you have a satisfactory answer, I think.

Mr. *Sol. Gen.* Swear Mr. *John Copley*, (which was done.)

Mr. *Att. Gen.* Were you at *St. Omers* in 77 and 78?

Mr. *Copley.* Yes, I was.

Mr. *Att. Gen.* Was *Oates* there then?

Mr. *Copley.* I saw him all the time he was there.

Mr. *Sol. Gen.* When did he come thither?

Mr. *Copley.* He came a little before *Christmas*, to the best of my remembrance.

Mr. *Sol. Gen.* When went he away?

Mr. *Copley.* In 78.

Mr. *Sol. Gen.* In what month in 78?

Mr. *Copley.* In June 78.

Mr. *Sol. Gen.* Was he absent any part of that time?

Mr. *Copley.* I was there, and he was there too.

Mr. *Sol. Gen.* Was he absent any part of the time from *Christmas* to June?

Mr. *Copley.* Nay, I am sure he was there all the time, except that night that he was absent at *Watton*, and that was in *January*.

Oates. Pray my Lord ask him what Religion he is of.

Mr. *Copley.* Does your Lordship ask me that question?

L. C. J. Yes, I do ask you, Mr. *Oates* would know it.

Mr. *Copley.* I am a *Roman Catholick*, my Lord.

Mr. *Sol. Gen.* Swear Mr. *Cook*, (which was done.)

Mr. *Att. Gen.* Did you know Mr. *Oates* at *St. Omers*, and when?

Mr. *Cook.* He came there a little before *Christmas* 77.

Mr. *Att. Gen.* How came you to know him there?

Mr. *Cook.* I liv'd in the House then.

Mr. *Att. Gen.* Was he there all *April* and *May*?

Mr. *Cook.* Yes, he was till the latter-end of *June*.

Mr. *Att. Gen.* Did you see him every day?

Mr. *Cook.* Yes, I did.

Mr. *Att. Gen.* Can you tell any particular time?

Mr. *Cook.* I am positive he was the 30th. of *April*.

Mr. *Att. Gen.* What stile? Mr. *Cook.* New stile.

L. C. J. How do you know he was there then?

Mr. *Cook.* It is a remarkable time; there is a Procession that they keep there on that day from the Sodality to the Church, and I saw him go among the rest at the latter-end among the Rhetoricians.

L. C. J. What say you, was he there on that day Mr. *Hildesley* went away?

Mr. *Cook.* I do not remember that.

L. C. J. Do you remember *Burnaby*?

Mr. *Cook.* I was there when Mr. *Burnaby* went away.

L. C. J. But when he came was *Oates* there?

Mr. *Cook.* I cannot speak particularly to that.

Mr. *Att. Gen.* What was your place in the College?

Mr. *Sol. Gen.* My Lord, he is a Lay-man be sure.

Mr. *Cook.* I was a Servant in the House.

Oates. In what place do you serve?

Mr. *Cook.* I was a Tayler.

Oates. I do not remember him.

Mr. *Cook.* But I remember you.

Mr. *Sol. Gen.* Swear *Jo. Wright Esq.* (which was done.)

Mr. *Att. Gen.* Do you remember *Oates* at *St. Omers*?

Mr. *Wright.* Yes, I do.

Mr. *Att. Gen.* When was it?

Mr. *Wright.* The Winter before the notice of the Plot was.

Mr. *Att. Gen.* What year was it in?

Mr. *Wright.* In the year 77.

Mr. *Att. Gen.* What month in that year did he come thither?

Mr. *Wright.* I cannot tell, it was Winter-time.

Mr. *Att. Gen.* When did he go away?

Mr. *Wright.* He went away in Summer, I cannot tell just the time.

Mr. *Att. Gen.* Was he absent at any time, from his coming in Winter, to his going away in Summer.

Mr. *Wright.* The Scholars said he was once at a place call'd *Watton*.

L. C. J. Come,

L. C. J. Come, this says nothing to the purpose.

Mr. Sol. Gen. My Lord, we leave it here.

L. C. J. What say you to it then Mr. Oates?

Oates. Has Mr. Attorney done?

Mr. Att. Gen. Yes, we have done for the present.

L. C. J. Then are you to make your defence.

Oates. My Lord, Here is an Indictment brought against me for Perjury; and this Indictment sets forth, *That I should upon the 17th. of December appear at the Old-Bailey, and there swear, That there was a Treasonable Consult of the Jesuits met at the White-horse-Tavern in the Strand, and that this Treasonable Consult did divide it self into lesser Companies and Meetings, and that I carried about a certain Resolution, which the Jesuits came to, concerning killing the King, from Chamber to Chamber to be sign'd.* My Lord, I have a great exception to make to this Indictment, and that is, my Lord, as to the form: For, by your Lordships favour, I think the Perjury is not well assign'd, and according as I am advis'd I offer this to your Lordships consideration. It says in the assignment of the Perjury, *Ubi revera & in facto prædictus Titus Otes non præsens fuit ad aliquam Consultationem Jesuitarum apud le White-horse-Tavern prædict' in le Strand in Com' Midd' prædict' super viceßimum quartum diem April' anno Dom' Millicesimo.*

L. C. J. How Millicesimo?

Oates. My Lord, it is Law-Latine, I suppose it may serve in a Court.

L. C. J. No, it is true Latine there:

Oates. I cannot tell how to read it better.

L. C. J. I do believe that.

Oates. It is written in such a hand, I cannot read it; but the substance of it is, it says here, That I did not carry any Resolution from Chamber to Chamber *signat'*. Now, the Evidence charged upon me to be given, is, That I did not see it *signat'*: So that the assignment of the Perjury does not pursue the Oath as it is set forth; for if it be *signat'* in the Evidence that was given, it ought to be *signat'* in the Perjury that is assigned; and I humbly crave the Opinion of your Lordship and the Court upon this point.

L. C. J. Look you, Mr. Oates, That you offer'd before, and I gave this Answer, which I must now repeat, That now we are upon the Fact, and this exception will be sav'd to you for its proper time, if you be convicted. It is not proper now; but suppose there were that thing which you say is an Objection, yet you must know that there are Two Perjuries that are assign'd; the One is upon the first part of your Oath, which was, That you were present at a Consult of the Jesuits the 24th. of April 78. at the *White-horse-Tavern* in the *Strand*, *Ubi revera* you were not there. Now, Do you admit in the first place, that you were forsworn in that particular?

Oates. No, my Lord, I do not.

L. C. J. If the Jury find that you were forsworn in that first point, that you were not there, it will be easily believed you swore false in the other point, that you did not carry the Resolution from Chamber to Chamber.

Oates. But, my Lord, it is not well assign'd, I think.

L. C. J. That will be sav'd to you after the Verdict, I tell you, if there be occasion for it.

Oates. My Lord, I suppose the Proof ought to be according to the Record, and the Record makes the Perjury differ from the Oath.

L. C. J. I tell you that is to the form, and that will be sav'd to you after the Verdict one way or the other.

Oates. Then will your Lordship be pleas'd to consider there was a Record brought in, which is almost the same with that I am to offer to be read on my behalf, and which is the first Proof that I have to offer of the Consult that was held in *London* in *April 78.* And I desire Mr. *Perciville* may be called, I forget his Christian-name, and Mr. *Vaughan* who is my Solicitor: But pray, my Lord, let me first have the Opinion of the Court, whether they did prove the words that I am said to swear as they are laid in the Indictment.

L. C. J. Yes, very fully, we think so; but the Jury are to try that, that is a point of Fact: but if you will, you shall have our thoughts about it; We think they are fully proved.

Crier. Here is Mr. *Perciville.*

Oates.

Oates. Pray swear him, (which was done)

L. C. J. What do you ask him?

Oates. Mr. Percivale, you examin'd the Conviction of Mr. Ireland, pray put it in: Is it a true Copy? Percivale. Yes, it is.

Oates. My Lord, I desire that the Conviction and Attainder of Mr. Ireland may be read.

Mr. Att. Gen. It has been read already.

Oates. My Lord, I will not take up the Courts time any more than is necessary for my Defence.

L. C. J. Nay; do as you will, as long as you offer things pertinent and decent, the Court will hear you with all patience, and you may take what time is necessary for you.

Oates. I thank your Lordship: I design'd nothing at all of reflection upon the Court, but a reflection on the Witnesses that came in against me.

C. of the Crown. This is a Copy of the same Record that was before read.

Oates. Well, if that be allowed for Evidence for me, I am contented to spare the time of the Court, not to read it again: but, my Lord, I offer this, and desire to have Counsel assign'd me to argue this point in Law; that is, Whether or no the Convictions and Attainders of Ireland, Whitebread, and the rest of them, of a Treasonable Consult of the 24th. of April 78. where it was resolv'd to murder the late King, ought not to be taken as a sufficient Legal Proof of the Fact, so long as those Attainders remain of force? and whether the averment of that being false, is to be received against those Records.

L. C. J. There is no difficulty in that at all in the world, Mr. Oates.

Oates. My Lord, I do not know the Law, and therefore I pray I may have Counsel assign'd to argue that point.

L. C. J. There is no question in it. God forbid, if a Verdict be obtain'd by Perjury, that that Verdict should protect the perjurd party from being prosecuted for his false Oath. There were no Justice in that; nor is it an averment against a Record, for this is not a Writ of Error in fact that will reverse it, but the Record remains a good Record and unimpeached still: But though it be a good Record, yet it is lawful to say this Verdict was obtain'd upon the Testimony of such an one, that forswore himself in that Testimony, and for that particular Perjury he may surely be prosecuted.

Oates. Is not that Attainder an uncontrollable Evidence of the Fact, 'till it be revers'd?

L. C. J. Yes, it is against the party attainted; but if that Attainder was founded upon a Verdict that was obtain'd by Perjury, God forbid, but he should be told so that did perjure himself.

Oates. Well, my Lord, if your Lordship rules that for Law, then I will go on; and I must now observe to the Jury in the opening the Evidence two things. First, That the Indictment upon which Ireland was try'd, was found the 16th. of December 78, and on the 17th. of December, the next day, Ireland was try'd at the Old-Bailey; and then I find this Indictment brought against me for Perjury, is found at the Old-Bailey six years after the Fact by special Commission. Now, I submit it to your Lordships and the Juries consideration, why the Presentment and the finding of this Bill for Perjury has been so long delay'd, since it appears by the Evidence, that the Witnesses that have been produc'd to prove the Perjury, were either at the Trial of the Five Jesuits, or might have been produced then; and though they are not all the same persons, yet they all bear the same Testimony that was then offered, but were not credited; and I hope when my Evidence is heard, they will have the same Reputation with this Jury that they had with those others. My Lord, I must acquaint your Lordship and this Court, That in this Indictment for which Mr. Ireland was convicted, Mr. Whitebread and Mr. Fenwick did undergo part of the Tryal, and did hear the whole body of the Evidence that the Witnesses testified against them; but there being but one Witness against them two at that time, which was my self, (Mr. Bedloe being then upon an Intrigue, as your Lordship may remember) my Lord Chief Justice Scroggs, who was then the mouth of the Court, did discharge the Jury of Mr. Whitebread and Mr. Fenwick, and remanded them to Prison, which Mr. Whitebread six months after did remark to the Court, and urg'd it as a Plea for himself to be discharg'd: but that being over-ruled by the Court, he was try'd. Now,

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he had six months time to provide himself with new fresh Evidence to asperse me, and to endeavour to falsifie that Testimony I gave in against *Whitebread* and *Fenwick*, when *Ireland* was try'd, and so he knew what it was. I must further observe to you, my Lord, and Gentlemen of the Jury, That my Case is very hard, that since the substance of my Testimony was with credit receiv'd; and the Jury upon convicting them were acquainted, "That they had found an unexceptionable Verdict; That all the Objections against the Evidence were then fully answer'd; That "there was nothing that the Prisoners had been wanting in to object, which could "be objected; and that the thing was as clear as the Sun. And yet, after six years time, I must come to be called to an account for Perjury in my Testimony of that part of the Popish Plot, with which the King and Kingdom, four successive Parliaments, all the Judges of the Land, and three Juries, were so well satisfied. I shall therefore offer to your Lordship and the Juries consideration the unanimous Votes of three Houses of Commons; I shall offer the Proceedings of the House of Lords, that is the highest Judicature in the Kingdom; I shall prove what I have open'd by the Testimony of several Noblemen that are here, who will testify this for me. My Lord, I shall prove, that several attempts have been made to baffle this Testimony, as that of the Murder of Sir *Edmundbury Godfrey*, who took my Depositions, the Contrivance of *Paine, Farewell, and Thompson*, made in the year 81 or 82, I forget which; I shall then produce Evidence that I was actually here in Town at the time in question; and then upon the whole I shall submit it to your Lordship and the Jury. But to prepare your Lordship and the Jury the better for my Evidence, I would again urge the strangeness of this Prosecution, and the hardship that is put upon me, to be tryed for Perjury in an Evidence given six years ago, and formerly very industriously, though not successfully, endeavoured to be falsified by sixteen *Sr. Omers* Youths that were produced and examined before all the Judges in the Kingdom, and that not only once at *Whitebread's* Trial, but a second time at *Langborn's* Trial, in neither of which would the Jury believe them, because of their Religion and Education, and the persons under whom they were educated, who were men of known Artifice. Then, my Lord, I would this argue: If that time my Evidence were true, it must be true still; for Truth is always the same; and if it were then true, and I can prove it to be true, 'twill be thought a hard thing without all doubt, that this should be put upon me. Then, my Lord, I would fain know from my Prosecutors, Why this Indictment of Perjury has been deferred so long? Why these Witnesses that come now to testify this matter, and could then have been brought, did not come before, to justify at the Trials of these persons what they now say, which might have sav'd their Lives, if true, and had been credited. Then I shall offer to your Lordship what I desire You and the Jury would please to observe, That though the King's Council are now against me, yet they are also against themselves, for they were of Council for the King in those Cases: particularly Mr. Solicitor at *Langborn's* Trial, Sir *Robert Sawyer* at Sir *George Wakeman's* Trial: They were of Council before for the truth of my Testimony; they are now against it: I only mention that, and pass it over. But this is not the first attempt that has been made to discredit the Testimony of the *Popish Plot*, as I told you before. Now, can it be supposed that the love and desire of publick Justice can be the cause of this attempt to falsifie my Evidence after so many Trials, in which it has been credited and confirmed? Can any thing, my Lord, more plainly tend to destroy and subvert the methods of Justice, to frighten all Witnesses from henceforth from ever appearing to discover any Conspiracies? and does it not tend to expose and vilifie the known Understanding and Justice of the late King of ever Blessed Memory, to arraign the Wisdom of His Privy-Council, His Great and Noble Peers, His Loyal Commons in three successive Parliaments, His Twelve Judges, and all those several Juries that were upon those Trials? Had not those Juries sense? had they not honesty? had they no consciences? And the Judges before whom those Conspirators were try'd, were they men of no Justice, nor Honour, nor Integrity, nor Conscience, nor Understanding? Shall those Juries be said to have drawn the innocent Blood of these men upon their own Heads and the Nation? as, if I were perjur'd, it must be innocent Blood that was shed upon it.

L. C. J. No, no, that goes a great deal too far, Mr. Oates: The Jury have no share, nor the Judges neither, in that Blood which was shed by your Oath.

Mr. Justice Wilsens. No, That is your own most certainly, and not theirs.

Oates. But this, I say, makes it most plain: The Evidence was then true, and I hope I shall make it as evidently plain 'tis as true now; and I do not question, but upon the Evidence I shall now give, both Positive and Collateral, the Jury will believe me, and acquit me of this foul Accusation. Pray my Lord be pleased to consider, that when the Jury brought in Ireland guilty of the High-Treason of which he was accused and convicted him, Pickering, and Grove; says my Lord Chief Justice Scroggs (that then was) to them, "*Gentlemen, you have done like very good Subjects, and very good Christians, that is, like very good Protestants; and now much good may do them with their Thirty Thousand Masses;*" as I shall prove he did say. Then I insist, in the second place, That Whitebread's Conviction does reinforce the Conviction of Ireland, because of the attempt by the St. Omers Witnesses to have overthrown my Evidence: But since I am attack'd again in the same kind by the violence of the Popish Interest, and by the malice of my Popish Adversaries, I am contented to stand the Test with all my heart. And then, to conclude all, I shall shew the Court, That 'tis in vain for the Popish Party to expect and think to wipe their mouths, with Solomon's Whore, and say *they have done no wickedness*: No, I question not but thousands of Protestants in this Kingdom are fully satisfied and convinced of the Truth of the Popish Plot, all and every part of it. Now, my Lord, if you please to give me leave to proceed on in my Evidence, I shall beg that these Records of Conviction may be read, which are my first Proof of the Consult; and I shall then bring Witnesses, *viva voce*, and shall make it appear, that what I did swear at those Trials was true.

L. C. J. Not to interrupt you in your Defence, or the method you will take for it, I would put you upon that which is proper for you to apply your self to, because the question now is not, Whether there was a Consult or Congregation of the Jesuits here upon the 24th. of April 78? but the question that toucheth you is, Whether you were present at any such Consult here in London the 24th. of April 78? These Gentlemen, some of them, do say, there was a Consult, and others that they heard of it, and believe there was such an one, because it was usual to have a Triennial Congregation for some particular purposes: But the question, is, Whether you have sufficient proof to prove your self to be here on the 24th. of April 78, at which time it is agreed of all hands there was a Consult?

Oates. But will your Lordship be pleased to take notice of the drift of the Evidence, how they are consistent one with another? These Gentlemen that have now been sworn to prove that I was not at this Consult, do attempt to prove that I was at St. Omers: Now, to answer this, I shall not go about to prove that I was not then at St. Omers, but that I was actually then, and about that time, here in London; and then all that proof that Mr. Attorney-General has brought must be laid aside.

L. C. J. You say well; prove that.

Oates. Now, my Lord, to introduce and prepare the Jury for this, it will be necessary, I humbly conceive, to read the Records of the Conviction of Whitebread and Ireland.

L. C. J. Well, go your own way. We are not to direct you: I only tell you where the question lies.

Oates. Sir Samuel Astrey, pray be pleased to read them in English, that the Jury may understand them. First read Ireland's Record, (which was done.)

Oates. Now read Whitebread's Record: Read but the Attainder, I will not trouble the Court with the whole Record.

Cl. of the Crown. "*Thomas White, alias Whitebread, William Harcourt, alias Harrison, John Fenwick, John Gaven, and Anthony Turner, were found guilty of High-Treason, and attainted, and Execution awarded against them upon that Attainder.*"

Oates. Does not the Record say, The Jurors say upon their Oaths they are guilty.

L. C. J. Yes, I'll warrant you.

Cl. of the Crown. It is *Dicunt super sacramentum suum.*

Oates, Very well: These, my Lord, I do produce as my first Evidence, to prove that there was a Trayterous Consult held upon the 24th. of April 78, at the White-horse-Tavern in the Strand, it having been believed and affirmed by two Verdicts. Now give me leave to offer but this to the Court, That at the Trial of Mr. Ireland I gave so

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full and ample a Testimony against *Whitebread* and *Fenwick*, accompanied with all the circumstances of Time and Place, that my Lord Chief Justice *Scroggs* said, *The Evidence might be sufficient to have satisfied a private conscience, though it was not a legal Proof then to convict him, there being but one Witness against them*: And for this I call Mr. *Robert Blayney*.

Mr. Att. Gen. Pray swear Mr. *Blayney*, (which was done.)

L. C. J. What do you ask Mr. *Blayney*?

Oates. Mr. *Blayney*, have you your Notes of *Ireland's Trial* here?

Mr. *Blayney*. Yes, Sir, I have.

Oates. I pray will you look into what my Lord Chief Justice *Scroggs* said when he discharged the Jury of *Whitebread* and *Fenwick*.

Mr. *Blayney*. Whereabouts is it, Sir, in the Printed Trial?

Oates. It is page 55.

Mr. *Blayney*. I have found the place, what is it you would ask me about it?

Oates. Whether my Lord Chief Justice *Scroggs* did not use these words to the Jury:

"I do acknowledge that Mr. Oates has given a very full and ample Testimony, accompanied with all the circumstances of Time and Place, against them all; That may go far with you, all things considered, to believe there is a Plot: Yet I do not think they have proved it against *Whitebread* and *Fenwick* by Two Witnesses, though the Testimony be so full as to satisfy a private conscience, yet we must go according to Law too. It will be convenient from what is already proved, to have them stay till more proof come in; 'Tis a great Evidence that is against them, but it not being sufficient in point of Law. We discharge you of them. It is not a legal Proof to convict them by, whatsoever it may be to satisfy your consciences.

Mr. *Blayney*. I have look'd upon my Notes, and I cannot find exactly those words.

L. C. J. He says he cannot find that passage as it is there.

Mr. *Blayney*. There is something to that purpose, my Lord.

Oates. Pray, Sir, will you look into your Notes in the very same place, what my Lord Chief Baron said: "You must (speaking to the Jayler) understand they are no way acquitted: the Evidence is so full against them by Mr. Oates's Testimony, that there is no reason to acquit them; it is as flat as by one Witness can be.

Mr. *Blayney*. There is such a passage, I find, in my Notes.

L. C. J. He says there is such a passage.

Oates. Then I desire Mr. *Blayney* would look into his Notes, what my Lord Chief Justice *Scroggs* said in his summing up the Evidence against *Ireland*: He mentions the Evidence of Sir *Dennis Ashburnham*, who was produced to discredit me, and then he adds, "When the matter is so accompanied with so many other circumstances, which are material things, and cannot be evaded or deny'd, it is almost impossible for any man either to make such a story, or not to believe it when it is told.---- It is *Ireland's Trial*, page 72.

Mr. *Blayney*. My Lord, I do find such a passage in my Notes.

L. C. J. He says there is such a passage in his Notes.

Oates. Then I would ask Mr. *Blaney* another question at the bringing in the Verdict of the Jury against *Ireland*, *Pickering*, and *Grove*, my Lord Chief Justice *Scroggs* (that then was) had this expression, "You have done, Gentlemen, like very good Subjects, and very good Christians, that is to say, like very good Protestants; and now much good may their 30000 Masses do them.

Blayney. Yes, my Lord, there is in my Notes such an expression of my L. C. J. *Scroggs*.

Oates. Pray you, Mr. *Blayney*, have you *Whitebread's Trial*? the Trial of the Five Jesuits I mean.

Mr. *Blayney*. My Lord, when I received a Subpœna from Mr. Oates to be here this day, and to bring my Notes of *Ireland*, *Whitebread* and *Langborns Trials*, I did (as I did before upon another occasion) make a search for all my Notes, but could not find any but those of the Trial of *Ireland* and *Langborn*, and those I have brought here, but have not *Whitebread's*.

L. C. J. He says he has not the Notes of *Whitebread's Trial*; he cannot find them.

Oates. Then I must desire, my Lord, that the Printed Trials may be read.

L. C. J. No, they are no Evidence: If you can prove what was said at any of them, you may by Witnesses, but not by the Printed Books.

Oates.

Oates. Then will your Lordship be pleased to give me leave to mention what was said by your Lordship at that time, when you were Recorder of London, about your satisfaction with the Evidence?

L. C. J. Ay, with all my heart, and whatever I said I will own; if I can remember it.

Oates. Will your Lordship be pleased to be sworn then?

L. C. J. No, there will be no need for that; I will acknowledge any thing I said then.

Oates. Then, if your Lordship pleases, I will read those passages out of the Books.

L. C. J. Ay, do so.

Oates. Says Mr. Recorder of London, (in particular to that part of the Prisoners Defence, at the Trial of the Five Jesuits, and the full scope given them of making Objections to the Evidence) when he gave Judgment of Death upon these Five Jesuits and Langborn, (for I now speak of your Lordship in the third person) "Your several Crimes have been prov'd against you: you have been fully heard, and stand convicted of those Crimes you have been indicted for."

L. C. J. I believe I might say something to the same purpose as you have read now.

Oates. I thank your Lordship for that acknowledgment.

L. C. J. Ay, I'll own any thing I did say.

Oates. My Lord, I have one passage more to urge, and that was my Lord, after the Jesuits had been convicted, when the Jury brought in their Verdict, and found Whitehead, Fenwick, Harcourt, Gaven, and Turner guilty, your Lordship applying your self to the Jury, said thus to them; "Gentlemen, you of the Jury, there has been a long Evidence given against the Prisoners at the Bar; they were all indicted, arraigned, and tried for High-Treason depending upon several circumstances: They can none of them say the Court refused to hear any thing they could say for themselves, but upon a long Evidence, and a patient hearing of the Defence they made, they are found guilty, and for anything appears to us it is a just Verdict you have given."

L. C. J. I believe I might say something to that purpose too at that time; and no doubt the Jury did (as the Case then stood) find an unexceptionable Verdict.

Oates. There is another place, my Lord, that I would instance in, for your Lordships Opinion of the Evidence of the Popish Plot, and that is this: Now, my Lord, I bring your Lordship as you were of Council for the King at Mr. Colledge's Trial at Oxford, the 17th. of August 81: There you, my now Lord Chief Justice, directing your self to the Jury, had this expression; "We come not here to trip up the heels of the Popish Plot, by saying that any of them who suffer'd for it did die contrary to Law; for if Mr. Dugdale was not a person fit to be believed, or if the rest of the Judges who try'd Gaven were out in the Law, then that man dy'd wrongfully; for he had as much right to be try'd according to Law as any other person whatsoever. This was your Lordships Opinion of the matter then, and your Lordship as Council for the King did there deliver the Law as well as Fact to the Jury. If then they went against Law that would go to trip up the heels of the Popish Plot."

Mr. Justice Withens. We are got into an endless Wood of sayings of people, I know not where and when; and when all is done, 'tis to no purpose.

Oates. My Lord, it is a part, and a great part of my Defence, to shew what credit has been given to the Evidence of the Popish Plot.

L. C. J. Ay, but what Council says at the Bar, or what Judges say in the Court of their Opinion is no Evidence of a Fact, of which the Jury are Judges only.

Oates. My Lord, every Judge is upon his Oath, and delivers his Judgment according to his Oath.

L. C. J. Not as to the Fact, but only in points of Law, so as to tell the Jury what the Law is, if the Fact be so and so.

Oates. My Lord, it goes a great way with the Jury to have the Judges Opinion.

L. C. J. Mr. Oates, deceive not your self; all this you have insisted on hitherto, has not been to the purpose, nor is any sort of Evidence in this case; and therefore do not run away with an opinion of this as Evidence: a Judges Opinion is of value in points of Law that arise upon Facts found by Juries, but are no Evidence of the Fact, for Judges only do presume the Fact to be true, as it is found by the Jury; and there-

fore say they, Out of that Fact so found, the point of Law arising is thus or thus. Then in Case, after a Jury has given a Verdict of the Fact, a Judges Opinion of the Fact, (which may be perhaps contrary to the Verdict) should be an Evidence as to that Fact, that would be to overthrow and nullifie the Juries Verdict: No, that is not the Judges Province. Surely you would not have a Judges private Opinion, that Twelve men have found a Verdict against the Fact, to be an Evidence as to that Fact: No; but admit the Fact to be so or so, then the person convicted of the Fact ought to suffer so or so. And by the same reason as this, a Jury of honest Gentlemen here, when I tell them here is a plain Fact either to convict you or to acquit you upon this Indictment, are not bound to go by what I say in point of Fact, but they are to go according to their own Oaths, and according to the Evidence and Testimony of the Witnesses: It is not my Opinion that is to weigh at all with them, whether you are Guilty of this Perjury, or are Innocent, but the Evidence that is given here in Court. Therefore what my Lord Chief Justice *Scroggs* said at any of those Trials, or what I said, or any other person, that either was of Council, or a Judge on the Bench, said as our Opinions, is but our Opinions on the Fact as it occurred to our present apprehensions, but is no Evidence nor binding to this Jury. I must tell you, there is no doubt but that those Juries did every one of them believe the Evidence you gave, or they would not have convicted the Prisoners. Do you think they would have found a Verdict against their own belief, and being upon their Oaths to make true Deliverance between the King and the Prisoners, have perjured Themselves to hang Others? If they had so done, they had committed Wilful Murther, and the worst of Murthers too, being under colour of the Process of Law; but yet all this is no Evidence. I do not discommend you for insinuating these things as introductive and preparative to what Evidence you have to offer; but it is no Evidence one way or other. Alack-a-day! how many times have we Causes here in *Westminster-hall*, wherein we have Verdict against Verdict? and yet no imputation to either of the Juries, which might give different Verdicts upon different Grounds. There was a notable Case lately of my Lady *Ivies* at this Bar: We all thought upon the first Trial, that she had as good a Title to the Land as could be; all the Judges and the Council went way (I believe,) satisfied with the Juries Verdict for her: But when the Cause came to be heard again, we found all the Witnesses to prove her Title, were guilty of notorious Perjury, and the same persons which did believe before that she was in the Right, and the Jury had done well, when they heard the second Trial did believe she was in the wrong, and accordingly the second Jury found it so; and we believe that last Verdict to be good, without any reflection on the Credit of the First Jury, because the Evidence was as strong on her side then, as it was afterwards against her. In these Cases we give our Opinions always according to the present Testimony that is before us.

Oates. Then, my Lord, I offer this to your Consideration, That those men that were thus charged by me with High-Treason, were Priests and Jesuits most of them, and particularly Mr. *Ireland*, in whose Trial I am said to have committed this Perjury, and you shall find him to have been by others proved a Priest and a Jesuit, and actually engaged in a Design against the Life of the King. If I then do prove that *Ireland* was engaged in a Design against the late Kings Life, and was a Priest and a Jesuit, I desire to know, Whether this be not a Collateral Evidence to render me of credit sufficient, and support my Testimony.

L. C. J. By no means upon this Indictment. It's true it may give some credit to your Testimony, but is not of it self sufficient: Nay, I'll go a great way further than that; I will suppose that there was a Consult of the Jesuits upon the 24th. of April 78 at the *White-horse-Tavern* in the *Strand*, where those you say were present, were all present, *Ireland*, and *Whitebread*, and *Pickering*, *Grove* and *Fenwick*, were all there, and that they did there come to a Resolution to destroy the late King: Suppose all this to be true, and yet you all this time are not innocent of the Fact imputed to you, because you swore directly, *That You were there at that Consult too*, which you were not, if these men swear true, for then you were at *St. Omers* at that time; and therefore give us some sort of Testimony to satisfy us that you were here,

and

and then you will set all right again. If the *Jesuits and Priests and Plot*, that is nothing to make your Evidence true, if you swore that which you did not know of your own knowledge.

Oates. Shall it be allow'd then that *Beland* was a Jesuit and a Papist?

L. C. J. If it should, that will be to very little purpose for your Turn.

Oates. There is the Evidence of a Record for it, my Lord; but if that be not sufficient, I can call Witnesses to prove it. Pray call Mr. *Miles Prance*; (which was done, but he did not appear.)

Cryer. He is not here.

Oates. He was *suborn'd*, my Lord, to come hither.

L. C. J. I can't help it, if he will not come; but I'll tell you, for methods sake, not to prescribe to you, but to tell you what I think may be more for your advantage than any of these Inferences that you are making: If you did call two or three Witnesses to prove that you were in Town the 22^d, 23^d, or 24th of April, it would be the best Defence you can make, and would give the best answer to all that is objected against you.

Oates. I will do that (my Lord) then, and follow your directions.

L. C. J. Do so, that is the best way.

Oates. *Cryer*, call *Cicilia Mayo*.

Cryer. Here she is.

Oates. Swear her, (which was done.)

L. C. J. Well, what do you ask this Witness?

Oates. Pray Mrs. *Mayo* give my Lord and the Jury an account whether you did see me in London the latter-part of April or the beginning of May 78; for that is the question now before the Court.

L. C. J. Ay, what say you? when did you see him in 78?

Mrs. Mayo. My Lord, I saw him the latter-end of April: He came to Sir *Richard Barker's* House, where I did then live, and afterwards he came again thither within a few days. By this circumstance I remember it; Sir *Richard Barker* my Master was sick all the month of April, and in the Countrey, only he came now and then home for a little while, and went again: Now Mr. *Oates* came there when he was absent, and a young man that lived in the House came to me, and told me, There was Mr. *Oates* in the strangest disguise that ever was. Says he, I think he is turn'd Quaker: No, said I, he is no Quaker, for they wear no Periwigs, and I rebuk'd the young man for saying so. As for Mr. *Oates*, I never saw his face before that time that I know of.

L. C. J. How do you know that to be Mr. *Oates* then?

Mrs. Mayo. The Family knew him, and they told me it was he: That is the Gentleman there. I speak now nothing but that which I testified seven years ago, and it is all Truth, and nothing but the Truth.

L. C. J. Ay, no doubt of it, thou swear'st nothing but the Truth.

Mrs. Mayo. My Lord, he came three or four days afterwards again to the house, and then the young man came to me, and told me, That *Parson Oates* was turn'd Jesuit; and thereupon I said to him, Good Lord! why dost thou concern thy self with him? canst not let him alone? I lookt upon him, and saw him at that time: And when he came that time, he went to Sir *Richard's* Ladies Sister, who is now in Wales, and coming to her, said she, Mr. *Oates*, I hear you are turn'd Jesuit, and we can have no Society with you now: At last, he stay'd to Dinner with them, and stay'd most of the day there. Then he comes the latter-end of May; *Whitsontide* was in May that year, and I know he came before *Whitsontide* by this token; I speak of the second time of his coming: Our Custom in the house was to Wash and Scowr before the time, and I was sending for a Woman to come and help to Wash and Scowr, and then he was walking in the Garden; and the young man came and told me *Oates* was there: He came into the Pantry to me, Look, said he, he is come again, and he is turn'd Jesuit by his disguise: Why *Benjamin*, said I, what hast thou to do with the man? canst not let him alone?

L. C. J. What was the Name of that young Man you speak of?

Mrs. Mayo. Truly, my Lord, he is dead, or he would have testified the same thing.

L. C. J. But

L. C. J. But what was his Name?

Mrs. Mayo. Benjamin; I can't tell his other Name.

L. C. J. Well, go on.

Mrs. Mayo. Said I to him, Why dost thou scorn this man? Prithee get out of the Room, I am not able to hear it: So he walk'd the space of an hour in the Garden.

Lord Ch. Justice. Is Sir Richard Barker living?

Mrs. Mayo. Yes, my Lord, he is, but he is not well.

L. C. J. Was he at home when Oates was there?

Mrs. Mayo. No, my Lord, I think not.

L. C. J. Who din'd with him, do you say, when he din'd there?

Mrs. Mayo. My Ladies Sister.

Lord Ch. Justice. What is her Name?

Mrs. Mayo. Madam Thurrel.

Lord Ch. Justice. And who else?

Mrs. Mayo. And her Sons.

Lord Ch. Justice. Where are they?

Mrs. Mayo. They are both dead.

Lord Ch. Justice. And who else was there?

Mrs. Mayo. One Doctor Cocket.

Lord Ch. Justice. Where is he?

Mrs. Mayo. He is in Wales too, my Lord.

Lord Ch. Justice. 'Tis a great misfortune to have so many dead, or so far remote.

Oates. My Lord, six years time makes a great alteration in a Family.

Lord Ch. Justice. Was there any body else there?

Mrs. Mayo. There were two of the Daughters, and they could all come and testify the same thing.

Lord Ch. Justice. Where are they, and what is become of them? why are they not here?

Mrs. Mayo. They are living in Lincolnshire, my Lord, I think.

Lord Ch. Justice. What else have you more to say?

Mr. At. Gen. Pray Mrs. Mayo let me ask you a question: What colour'd Cloaths had he on when you saw him first?

Mrs. Mayo. He had a whitish Hat, and colour'd Cloaths.

Mr. Sol. Gen. What time of the day was it you saw him?

Mrs. Mayo. In the morning.

Lord Ch. Justice. Did he go publickly?

Mrs. Mayo. Yes, he went publickly.

Mr. Sol. Gen. Did he come often to the house?

Mrs. Mayo. He was there frequently, my Lord.

Mr. Sol. Gen. Then it seems he was so disguis'd, that he could walk publickly in the streets of London at Noon-day, and was frequently in the Family.

Mrs. Mayo. Yes, my Lord.

Lord Ch. Justice. Now tell me who was in the Family.

Mr. At. Gen. Mrs. Mayo.

Lord Ch. Justice. Pray give me leave to ask her the question: Who was there at that time?

Mrs. Mayo. Sir Richard Barker's Ladies Sister, Madam Thurrel, and his two Daughters, and two of his Kinsmen, and two of the Servants, one is here a Witness now.

Lord Ch. Justice. Who is that that is a Witness now?

Mrs. Mayo. One that belongs to Sir Richard Barker, and the other is now dead, & those two Kinsmen are dead.

Lord Ch. Justice. What is become of the two Daughters, say you?

Mrs. Mayo. They are in Lincolnshire, as I take it, my Lord.

Lord Ch. Justice. When did you hear from them?

Mr. At. Gen. My Lord, it is half a year ago almost since Mr. Oates had notice of this Trial.

L. C. J.

Lord Ch. Justice: Where is Sir Richard Barker himself?

Mrs. Mayo: I was with Sir Richard Barker, and he purposed to have come hither; but being a crazy man, and ancient, it seems he could not, and desir'd to be excus'd, for he had a bad night, and was not well; but he desired that the Court should know, if he were well he would be there.

Mr. Att. Gen. Were you sworn at a former Trial about this matter, Mrs. Mayo?

Mrs. Mayo: Yes, Sir, I was.

Mr. Att. Gen. Do you remember what you swore then?

Mrs. Mayo: The same I do now.

Mr. Att. Gen. Then I ask you this question, How long before *Whitsunide* was it that you saw Mr. Oates at Sir Richard Barker's?

Mrs. Mayo: A pretty while before, twice.

Oates. Mrs. Mayo, I'll put you a fair question, Whether or no it might not be a fortnight before *Whitsunide* you think?

Mrs. Mayo: The last time I saw you was a week before *Whitsunide*.

Lord Ch. Justice. How can you tell it was but a week?

Mrs. Mayo: 'Twas but a week, because at that time I had sent the Boy for the Woman to scow and wash there.

Lord Ch. Justice. Was that the last time you saw him?

Mrs. Mayo: Yes: I saw him several times before, and it was all before *Whitsunide*.

Lord Ch. Justice. How long before that was the first time that you saw him?

Mrs. Mayo: He would be away for three or four days, and come again.

Lord Ch. Justice. But how long before the last time was the first time you saw him.

Mrs. Mayo: He came still to and again.

Lord Ch. Justice. When was the time that you saw him next before the week before *Whitsunide*, which, as you say, was the last time you saw him?

Mrs. Mayo: I am not able to say that.

Lord Ch. Justice. Did you believe it was within the compass of a week before?

Mrs. Mayo: To the best of my remembrance it was.

Lord Ch. Justice. When was the first time you saw him?

Mrs. Mayo: 'Twas in the beginning of May.

Lord Ch. Justice. You said at first it was the latter end of April.

Mrs. Mayo: Fray, my Lord, let me a little think; I am unwilling to be mistaken, I would say nothing but the Truth.

Lord Ch. Justice. No, I would not have thee; but for Gods sake let us have the Truth, that is that we look for.

Mrs. Mayo: I say the Coach-man saw him there as well as I, and he can tell you better than I.

Lord Ch. Justice. But I ask you this question positively, Was it in May or April?

Mrs. Mayo: To the best of my remembrance it was the beginning of May.

Lord Ch. Justice. Was it within a week of May?

Mrs. Mayo: I believe it was, I cannot tell exactly to a day.

Mr. Sol. Gen. Was it so or not?

Mrs. Mayo: I cannot be positive to a day; it is now six years time since I was first examin'd about it.

Mr. Att. Gen. But you can remember what you swore then, can't you?

Mrs. Mayo: I declare it I speak not a syllable but I will aver to be true before the great God.

Mr. Sol. Gen. Can you swear it was within the first seven days of May?

Lord Chief Justice. You see, Mr. Solicitor, she says she cannot.

Mr. Att. Gen. Did not you say at that Trial, that you did never see his face till a week before *Whitsunide*, or a little after?

Mrs. Mayo, I did swear the same that I do now, to the best of my remembrance, & that is the Truth.

Mr. Att. Gen. But did you not swear so?

Mrs. Mayo, I never saw him before that first time he came to Sir Richard Barker's, and after the last time that he came I saw him nor till after the Plot was discovered.

Mr. Sol. Gen. How long was that after he had been at your Masters house?

Mrs. Mayo. It was a good while, I cannot tell how long.

Lord Ch. Justice. Was it within a month or two months?

Mrs. Mayo. It was more, my Lord.

Lord Ch. Justice. Where was Sir Richard Barker at that time?

Mrs. Mayo. He was at ~~Barby~~.

Lord Ch. Justice. Then he did not see him?

Mrs. Mayo. Not then he did not.

Lord Ch. Justice. Did he afterwards?

Mrs. Mayo. Yes, he did see him afterwards.

Lord Ch. Justice. How long afterwards was it?

Mrs. Mayo. I can't tell how long afterwards it was, my Lord.

Lord Ch. Justice. About what time was it?

Mrs. Mayo. After the Plot was discovered he was up and down in the Family.

Lord Ch. Justice. You never knew Mr. Oates before that time he came in a Disguise, and you did not know him then, but as they told you it was he?

Mrs. Mayo. No, I did not, but as they told me then; and this is the man, I'll swear it.

Oates. Call John Butler.

Crier. Here is John Butler.

Oates. Swear him, (which was done.) My Lord, if you please I will propose my questions to your Lordship; and my first question is this, I pray your Lordship would ask him, Whether he gave in any Evidence at the Five Jesuits Trial, or Langborn's Trial, about my being in Town in April or May 78?

Lord Ch. Justice. Did you give any Evidence at the Five Jesuits Trial?

Butler. Yes, I did.

Lord Ch. Justice. Did you give any Evidence at Langborn's Trial?

Butler. Yes, my Lord, I was a Witness there.

Oates. My Lord, it is so long ago, that ignorant people that come innocently without design, may not be so ready in their remembrance, as those that could their Lesson for so long time together.

Lord Ch. Justice. Well, well; what do you ask him next, Whether he will stand by that Evidence he gave then?

Butler. That is all I have to say, my Lord: I did testify the Truth then, and will abide by it.

Lord Ch. Justice. But he must give the same over again here, or it will signify nothing.

Oates. My Lord, it is now six years since, and this question was not thought to be stir'd so long after: Therefore I beg so much favour, that the Evidence he did give, at Mr. Langborn's Trial may be read to him.

Lord Ch. Justice. O by no means.

Oates. My Lord, it is such a distance of time----

Lord Ch. Justice. Look ye, if he has any Notes himself, he may look on them to refresh him.

Oates. My Lord, he comes raw hither, without any instruction at all.

Lord Ch. Justice. So should every Witness: God forbid we should countenance the instructing of Witnesses what they should swear.

Oates. I beg your pardon, my Lord, I did hope this favour might be granted: I will then ask him some questions.

Lord Ch. Justice. Ay, ay, do, refresh his memory by questions as much as you can. Come, I'll ask him some questions for you; Do you remember you saw Mr.

Oates at any time in the year 78?

Butler. If it please your Lordship, as near as I can remember I saw him in May before the Plot was discovered.

Lord Ch. Justice. That was the year 78.

Butler. I am sure I did see him about that time.

Lord Ch. Justice. Where did you see him?

Butler. I was a Servant to Sir Richard Barker, and Mr. Oates I had been acquainted with before he went to Sea; he us'd to come to my Masters house frequently, and divers times he din'd at the Table, and I waited upon my Master there.

Lord Ch. Justice. When was that he din'd there at the Table?

Butler. A year before that time, in May, that I spoke of before: It was before he went to Sea.

Lord Ch. Justice. When did you see him again?

Butler. After he came from Sea, I saw him at my Masters house.

Lord Ch. Justice. When was it that he went to Sea?

Butler. It was a year or two before the *May* that I saw him disguis'd coming to my Masters house.

Mr. At. Gen. Ay. what disguise did he come in?

Butler. His hair was cut off, close crop to his ears, and an old white Hat over his head, and a short gray Coat over like a Horse-mans Coat.

Lord Ch. Justice. How came you to take such notice of him at that time, as to be able to swear when this was?

Butler. I was call'd presently after for a Witness.

Lord Ch. Justice. How long after this was it, that you were call'd to be a Witness?

Butler. It was when the Trials were at the Old Bailey.

Lord Ch. Justice. Was this the first time you had recollected these circumstances?

Butler. Yes, my Lord, that was the first time.

Lord Ch. Justice. Then how came you a year and a half time afterwards to remember the precise month of *May*, when you did not know you should be call'd to question about it, and yet you cannot remember the time particularly when *Butler* went to Sea, but take the compass of a year or two?

Butler. I guess it was a year before, I cannot exactly tell.

Lord Ch. Justice. When you can but guess at the time of such a remarkable passage within the compass of a year or two, how can you pitch upon the very month for such a thing as this is a year and half time after?

Oates. No, my Lord, it was not so long as a year and a half.

Lord Ch. Justice. Pray Sir have patience.

Oates. My Lord, the Records shew that *Brelans Trial* was the 17th. of December 78, and the Five Jesuits Trial was the 15th. of June 79.

Lord Ch. Justice. Then it is a full twelve months time and more from the *May* that he says he saw you at Sir Richard Barkers, to *Whitbread's Trial*, in which he was examin'd the first time. Now that which I desire of him is, to give me a reason why he remembers it was in the *May* was twelve months before.

Butler. My Lord, The Lady whom I did serve, dy'd in February before, that year.

Lord Ch. Justice. But give me some reason of your remembrance so long after.

Butler. My Lord, I do as well as I can.

Lord Ch. Justice. Well, what is it?

Butler. My Lady was buried in February, and he comes into the Yard where I was clearing my Coach, in May following that February, which was May before the Discovery of the Plot. He ask'd me what alteration was in the Family? I told him my Lady was dead, and the Escutcheon was over the door for her. He ask'd for Doctor Tongue when he came first in the house.

Lord Ch. Justice. Why should he ask for Doctor Tongue?

Butler. My Lord, Doctor Tongue lodg'd there and he did ask for him: I come to justify the Truth; upon my Salvation what I say is true.

Lord Ch. Justice. Well, when he ask'd whether Doctor Tongue was within, what said you?

Butler. I told him no; but he went into the Room where Doctor Tongue us'd to lie, but found him not there: So he went out again; that was the same time Mrs. Mayo saw him.

Lord Ch. Justice. But, Friend, prethee mind what I ask thee, because thou must give me satisfaction. How dost thou com'st to remember this, so as to be able to swear it; for his going to ask for Tongue, or the Escutcheon being over the door, neither of those can be a reason for you to remember that this was in *May*, for the Escutcheon may be up in June, or in July, or in August, or in any other month after the time you speak of: But how came you to take notice of this business that it was in *May*?

Butler. Sir Richard Barker my Master was then sick at Putney, which was in *May*, though I cannot speak to a day of a week particularly.

Lord Ch. Justice. Then prethee let me ask thee this question, How long had your Master been sick before that?

Butler. He had never been well since my Lady dy'd.

Lord Ch. Justice. When was it that your Lady dy'd?

Butler.

Butler. In February before.

L. C. J. How long after that did your Master Sir Richard Barker continue sick?

Butler. Half a year, I believe.

L. C. J. Why then, suppose your Master fell sick immediately after your Lady died, and he continued sick half a year after, yet all this while Oates might come during his sickness even in the month of June or July, when 'tis acknowledg'd he was in Town, and not be here in February, which is testified by a great many Witnesses.

Butler. My Lord, I tell your Lordship the Truth, it was in May.

L. C. J. But how dost thou come to take notice it was in the month of May, so as to be able to swear it?

Butler. My Lord, I tell your Lordship my Lady was dead, and the Escutcheon was over the door.

L. C. J. So it might be, tho' he came in June or July, I tell ye.

Butler. My Master was sick at Putney at that time.

L. C. J. How long did he lie sick at Putney?

Butler. He was sick there a fortnight, my Lord.

L. C. J. When precisely when did thy Master go to Putney?

Butler. I cannot tell to a day.

L. C. J. In what month was it that he went?

Butler. It was the latter-end of April, my Lord, as I remember.

L. C. J. How long continu'd he sick at Putney?

Butler. The matter of a fortnight.

L. C. J. Was not your Master sick when your Lady dy'd at Putney?

Butler. No, he was not there then.

L. C. J. When did he go to Putney, say ye?

Butler. He went not thither till the latter-end of April, my Lord.

L. C. J. And did he continue at Putney but a fortnight.

Butler. Not at a time, but he continu'd going and coming a quarter of a year.

L. C. J. But this was the first time of his going, was it?

Butler. Yes, as I do remember.

Oates. My Lord, he is my Witness, and I desire I may examine him.

L. C. J. Hold there, Mr. Oates; he is mine too: all the Witnesses are mine to satisfy me in the truth of the Fact.

Oates. And to satisfy the Jury too, my Lord.

L. C. J. Yes, and to satisfy the Jury too; but I must and will sift out the truth, for both our satisfactions.

Oates. My Lord, it is now, come the next month, six years ago since the Evidence of this matter was first given by these Witnesses.

L. C. J. Then, Mr. Oates, I'll come a little rounder to you, and I'll put you into a certain way of clearing this business. I'll tell you what you shall do; You had a Lodging in Town, as well as Diet, and as well as you did eat at Doctor Barker's sometimes, so you eat and lay sometimes elsewhere. You were here in Town a great while together, if your own assertions be true; for you were from April till June in Town. Now come and give us account by some Witnesses, if you can, where did you lodge at that time, and where did you diet? for it seems you had but one meal at Sir Richard Barker's.

Oates. Is that the question, Sir, here in hand.

L. C. J. Ay, indeed it is, and the main one too.

Oates. I beg your Lordships pardon if I mistake, but I think that is not now in question; for these St. Omers men do swear, That I was all April and May at St. Omers: Then if I do prove that in April and May I was not at St. Omers, but here in London, it is argument good enough against them that their Evidence is false. And indeed, can your Lordship or the Jury expect that I being then engag'd among & for the Papists, & afterwards an Evidence against them to discover their Treasons, can bring any of them to testify for me now? No, they will as certainly forswear themselves, as these young Fellows have all done.

L. C. J. Let me ask you a shorter question; Did you always lie in a Papist house, all the two months you say you were here.

Oates. My Lord, I lay at several houses.

L. C. J. Tell me the names of those houses, or any of them.

Oates. It is not to the point in question here, my Lord.

L. C. J. Yes,

L. C. Justice. Yes it is very much; But I perceive it is a Secret, and let any body judge why.

Oates. My Lord, They that have by the principles of their Religion, Liberty, to affirm or deny any thing, and can have dispensations for the violations of Oaths and Sacraments, certainly are not to be admitted as witnesses in such a case as this.

L. C. Justice. Talk not to me of Dispensations and I know not what, I speak from a plain demonstrative Proof: can it be believed that you should be here in *England* so long, and as they say, publicly, and no person living see you that we can hear of, but an Old Woman that never saw you, nor knew you before, and a Coachman that tells a wild story without reason: if you will not tell me where you lay, can you tell me where you did eat all that time.

Oates. I can tell where I did lye that time.

L. C. J. Do so then. Let us hear it, that will be your best defence.

Oates. Is that the point My Lord, in question.

L. C. J. Ay upon my word is it the main point in this Case.

Oates. If it should go upon that foot my Lord, it is impossible for me now to prove it; for 'tis well known I lay sometimes with Mr. *Whitebread*, and sometimes with Mr. *Mico*, neither of which can I have to testify for me; and besides, I must insist upon it, these things were in question at *Whitebread's* Trial, nor do I believe that Mr. *Whitebread*, if ask'd at his death, would have justified, and stood by it, that I was not here then.

L. C. J. Well, This I must certainly say, I cannot help it, but it will stick with me till better answered. I can never be satisfied, that if you were here so long, there should no better evidence be produc'd to prove you here.

Oates. My Lord, nor can I help your dissatisfaction, but I am to satisfy all that hear me this day, that it is a very hard Case that is put upon me; I have taken the most effectual course that I could, to provide for Evidence to make my defence, and I think, by your Lordships good leave, those that I have produc'd, do prove me here in Town in *April* and *May*, 78. And if your Lordship has done with this Witness, I'll call another.

L. C. J. Well, go on as you will. I tell you what sticks with me.

Oates. Pray call Mr. *Philip Page*.

Mr. Soll. Gen. Hold Sir a little, I would ask these Witnesses a few Questions before they go away. You *Butler*, let me ask you, pray, the first time you saw Mr. *Oates* at the time you speak of, was it in *April* or *May*?

L. C. J. He swore it was the beginning of *May*.

Butler. To the best of my knowledge, it was the beginning of *May*.

Mr. Soll. Gen. Who did you tell first, that there was Mr. *Oates* at that time?

Butler. I told it Mrs. *Mayo*.

Mr. Soll. Gen. Consider Friend, what you say now, you are upon your Oath, and consider what you said at the former Trial, when you were upon your Oath too.

Oates. Pray, My Lord, I desire my Witnesses may be Examined without Threatnings.

L. C. Justice. It is not a Threatning, it is an Admonition not to go beyond the Truth.

Mr. Soll. Gen. Be sure you be in the Right in what you say, and now I ask you upon your Oath, when was the first time you saw Mr. *Oates* when he came in that disguise you speak of?

Butler. I told you it was in *May* Sir.

Mr. Soll. Gen. How far in *May*, consider well what you say.

Butler. To the best of my remembrance, it was the beginning of *May*.

Mr. Soll. Gen. Do you think it was within a Week, or the First Ten days of *May*?

Butler. I cannot tell that, as well as I remember, it was the beginning of *May*.

Mr. Soll. Gen. When you saw him first in *May*, who else, as you remember, was by?

Butler. Mrs. *Mayo*.

Mr. Soll. Gen. And no body else?

Butler. Yes, One *Benjamin Turbet*, who is since dead.

Mr. Soll. Gen. But consider your Oath Friend, once more, and recollect your self, do you swear positively *Mrs. Mayo* was by, and did see him at the same time?

Butler. I see her look out of the Window into the Yard, and I believe she did see him.

Mr. Soll. Gen. Well then, let us examine her Evidence and yours together, and see how they agree.

Oates. My Lord, these are not questions tending to satisfy the Jury at all, as to the point in question.

L. C. J. Are they not, methinks they are, whatsoever you think.

Oates. After Six years time, to ask such poor ignorant people such trifling questions!

L. C. J. Pray Sir be contented, and let the Kings Council examine the Witnesses.

Oates. My Lord, he says I was here in May, that's enough.

L. C. J. Well Sir, I know what he says.

Mr. Soll. Gen. And you shall hear *Mr. Oates*, how your Witnesses agree.

L. C. J. Go on *Mr. Solicitor*, and do you sit still and be quiet.

Mr. Soll. Gen. Then my Lord, I would ask him this question more, the first time you saw *Oates* come to Sir *Richard Barkers*, what habit pray you was he in?

Butler. He was in a disguise.

Mr. Soll. Gen. Ay, what disguise?

Butler. He had a White Hat flapping over his Ears; his Hair cut short, close to his Ears, and a grey short Coat.

Mr. Soll. Gen. Had he never a Periwig on?

Butler. No, his Hair was cut short to his Ears.

Mr. Hauser. Was he in such a disguise, that a Man might not ordinarily know him, that had known him before?

Butler. Truly my Lord, I did not know him when he first came in, till he spoke to me, and asked me, how do you *John*; and then I recollected who he was, that it was *Mr. Oates*.

Mr. Soll. Gen. Was he always in the same Habit, when he came thither?

Butler. The next time he came, he had a Cinnamon coloured Suit, and a long black Periwig that was cur'd down thus far, and a black Hat with a green Ribbon and green Cuff-strings about his Wrists.

L. C. J. Did you ever see *Oates* dine there?

Butler. Yes I did.

L. C. J. When was that?

Butler. After my Master came home from *Putney*.

L. C. J. Who was there besides?

Butler. One Sir *William Thurrell* and *Madam Thurrell*.

L. C. J. How often did he dine there?

Butler. Several times.

L. C. J. Who else was there?

Butler. My Master and his Daughter.

L. C. J. And who else?

Butler. *Mrs. Mayo*.

L. C. J. What is become of your Masters Daughter?

Butler. I beg your pardon for that my Lord.

L. C. J. Where is the Man?

Butler. She is at home I suppose.

L. C. J. What dost thou beg my pardon for then?

Butler. My Lord, I call to mind she did not dine with them.

L. C. J. Did she dine at any time with him there?

Butler. Yes, I remember several times, but not then.

L. C. J. When did you see your Masters Daughter last?

Butler. I have not seen her this Quarter of this Year.

L. C. J. Where is she now?

Butler. At home at *Putney* my Lord, I believe.

L. C. J. And she was several times there when he din'd there.

Butler. Yes, She was at home.

L. C. J. Did *Mrs. Mayo* see him at Dinner there?

Butler. Yes, I believe she did.

L. C. J. How often did he dine there about this time you speak of?

Butler. Several times.

L. C. J.

L. C. J. Do you think seven times?

Butler. I do think he might have din'd there seven times.

L. C. J. Did he more than seven times do you think?

Butler. I cannot number how many times it was.

L. C. J. Now come in *Mrs. Mayo* again.

Mrs. Mayo. Here I am my Lord.

L. C. J. *Mrs. Mayo*, give me leave to ask you a question or two.

Mrs. Mayo. Yes my Lord what you please.

L. C. J. You say (if I do not mis-remember; if I do, I beg your pardon, and you'll correct me) a week in *May* was the first time you saw *Mr. Oates*, and that was at *Sir Richard Barkers*.

Mrs. Mayo. I think it might be about the beginning of *May*.

L. C. J. Had he been in the House before?

Mrs. Mayo. Not at that time that I know of, but as they told me.

L. C. J. Who told you?

Mrs. Mayo. That Coach-man there *John Butler*, and one *Benjamin* who liv'd in the House.

L. C. J. Then you did not see him the first time he came; what say you *Butler*?

Butler. She did see him out of the Window in the yard.

L. C. J. Well let that pass then, come I'll ask you another question upon your Oath, how often have you seen him dine there?

Mrs. Mayo. I saw him dine that time that I spoke of.

L. C. J. Did not he dine there above once?

Mrs. Mayo. No he did not.

L. C. J. What say you *Butler*?

Butler. He did dine there several times with them.

L. C. J. Then one of you two must be mistaken I am sure.

Oates. My Lord, if your Lordship would please to give me leave to speak, I would set it right.

L. C. J. Good Sir let them set themselves right if they can, we need none of your Instructions. *Oates.* My Lord, I desire—

L. C. J. Why, how now; pray Sir be at quiet: *Mrs. Mayo*, pray what Habit had *Oates* when you saw him first?

Mrs. Mayo. He was in a grey Hat and a grey Coat:

L. C. J. Was his hair short or long?

Mrs. Mayo. He had on a kind of a short Wigg.

Mr. Soll. Gen. You are sure it was a Wigg.

Mrs. Mayo. Yes, a kind of a brown Perriwig.

L. C. J. And he says his hair was cut short to his ears.

Oates. These things are very lean stuff to perjure a Witness upon.

Mr. Soll. Gen. When he came the second time what Cloaths had he on?

Mrs. Mayo. Afterwards he came in black Cloaths and a long Perriwig.

Mr. Hanser. What coloured Perriwig was that; a black or a white one?

Mrs. Mayo. Not a black but a brown.

Mr. Soll. Gen. You say it was long.

Mrs. Mayo. Longer than his other, yet not very long.

L. C. J. Here are I know not how many Contradictions in these Witnesses Testimonies.

Oates. Truly my Lord, I do not find in the Examination of the *St. Omers* Witnesses, you were so strict, or bore half so hard upon them, as you do upon my Witnesses; what does it signify my Lord, whether the Wigg were long or short, black or brown?

L. C. J. We have no other way to detect Perjures, but by these Circumstances; and 'tis the duty of a Judge to enquire into all Particulars: as in a Controverſie about words, were they spoken in Latin or in English, and so to all places and postures of sitting, riding, or the like; as you know the Perjury of the Elders in the case of *Susanna*, was by their different Testimony in particular Circumstances discovered.

Oates. My Lord, I will ask her but one short question, by the Oath you have taken *Mrs. Mayo*, to speak the Truth, the whole Truth; and nothing but the Truth, as you expect the face of God with comfort in another World; did you see me at *Sir Richard Barkers* at any time in *May* 78: the *May* before the Plot was discovered? for that is the main question.

Mrs. Mayo. Yes I did, and I speak nothing here, but what I speak as in the presence of the Lord.

L. C. J. Pri—

L. C. J. Prithee Woman dost thou think we ask thee any thing that we think thou dost not speak in the presence of the Lord; we are all of us in the presence of the Lord always.

Mrs. Mayo. And shall answer before him for all that we have done and said, all of us, the proudest and the greatest here.

L. C. J. But I would not have so much to answer for as thou hast in this business for all the World.

Mr. Sol. Gen. Well we have done with her now, she may go away.

L. C. J. Where does she live now?

Cryer. *Mrs. Mayo* where do you live now?

Mrs. Mayo. In *Leaden-ball-street* my Lord.

L. C. J. When did you see *Sir Richard Barker's* Daughter?

Mrs. Mayo. About a Fortnight ago.

L. C. J. Where?

Mrs. Mayo. In *Barbican* in *London*.

L. C. J. Do you live with *Sir Richard Barker* now?

Mrs. Mayo. I do not live with him now.

L. C. J. Did his Daughter use to be at the Table at dinner?

Mrs. Mayo. She was often in the Country my Lord.

L. C. J. Did she eat at his Table at that time when *Oates* was there?

Mrs. Mayo. I am not able to say whether she did or not; she used to be in *Wales* at *Sir Thomas Middleton's* sometimes, and with *Madam Thurrell* her Aunt, who was her Mothers Sister and her two Daughters.

L. C. J. In *Wales* dost thou say, where?

Mrs. Mayo. My Lord in your own Country at one *Doctor Cockets*: I know your Lordship, though your Lordship does not know me.

L. C. J. I am very glad of it good Woman; but prithee did ever *Sir Richard Barker* dine with *Mr. Oates*?

Mrs. Mayo. I cannot say he did, he went to and fro.

L. C. J. Well, have you any more Witnesses?

Oates, Cryer, call *Philip Page*.

Cryer. Here he is Sir.

Oates. Pray swear him, (which was done) pray be pleased to give my Lord and the Jury the best account you can of my being in Town. But *Mr. Page*, the question that I first ask you, is whether I was here in *April* or *May*, and in what year it was that you did see me at your Masters House?

L. C. J. When did you see *Mr. Oates* at your Master's House? you mean *Sir Richard Barker* to be his Master I suppose?

Oates. Yes my Lord.

L. C. J. What do you say to it?

Page. Truly I cannot be positive to the year, but to the best of my remembrance it was 78.

Oates. Pray tell my Lord and the Jury some Circumstances in that year that did happen to you, that makes you believe it was 78.

Page. Sir, I'll give you the best satisfaction I can to the best of my knowledge; he came to *Sir Richard Barker's* one evening, and there he enquired for *Doctor Tongue*: he was in a disguise, in a light coloured Coat, something like to Frize, but it was not Frize; the term that they give it, I cannot so readily tell: he had his hair cut short almost to his ears, and he had a broad-brim'd Hat on, and a small stick in his hand, walking melancholly about the Hall: I happening to be the first body he met with as I suppose, he asked me if *Doctor Tongue* was within; I told him no, I had not seen him of a considerable time: he then asked me where *Sir Richard Barker* was; I told him he was ill now at *Putney*; says he, when will he be here; I told him I could not tell.

L. C. J. Did he see any body there but you?

Page. That I cannot tell my Lord, not that I know of.

L. C. J. What time of the year was it?

Mr. Att. Gen. And what Month?

Page. What year and what month it was I am not able to say my Lord.

L. C. J. What became of him after that?

Page. He went out of our Gates then: Sir, he was walking up and down melancholy, and not finding any one, as I suppose, to answer him, he continued walking in the

the Patients Hall, where they used to wait on Sir *Richard Barker*, that came to discourse with him about Physick; and upon my answer to his question he went away.

L. C. J. Did you ever see him any other time near to that time?

Page. No, I did not.

L. C. J. Did you use to wait on Table?

Page. No, I did not.

L. C. J. What Service were you then engaged in at Sir *Richard Barker's*?

Page. I made up the Physick my Lord.

L. C. J. Did you not acquaint the Coach-man, nor Mrs. *Mayo*, nor Sir *Richard Barker* with it?

Page. I think Sir *Richard Barker* was in Town soon after, and I did acquaint him with it.

Oates. But can't you tell what time this is Sir?

Page. I can say no other than I have said; I believe it was in 78.

L. C. J. Was this in June, July, or May, or when?

Page. I cannot say punctually what month it was my Lord; but to the best of my knowledge and remembrance, it was in the beginning of May.

Oates. Had not your Master a Patient at *Islington* at that time, that was sick of a Fever?

Page. Yes he had.

Mr. J. Withens. Why would Mr. *Oates* have given the Patient Physick?

Page. No my Lord; but 'twas about that time that the Patient was under my Master's Cure.

Oates. Indeed the *St. Omers* men do swear thorough stitch, but my honest Witnesses are cautious, it being so long ago; and he that is a Minister of the Church of *England*, (as they say) speaks to a very day, upon a much slighter Circumstance: pray call Mr. *William Walker*.

Cryer. Here he is.

Oates. Swear him; (which was done) be pleased, *Walker*, to give my Lord to understand, when 'twas you saw me here in *London* in disguise; and when it was you swore six years ago at the *Old-Bayly*, that you saw me here in *London*: Sir, the time in Controversie is this; I came here to discover a Plot of the Papists against the Kings Life and the Religion, and I swore—

L. C. J. You must not ask questions in that manner. It is properest for you to propose your questions to the Court, and they will ask the Witnesses.

Oates. Then I will not ask him, but propose it to your Lordship.

L. C. J. Ay, propose what questions you please, and if they are fair I'll ask them.

Oates. Then my Lord I would ask Mr. *Walker* this question; when 'twas he met me with a disguise, in what year and what month.

Mr. Walker. My Lord, I have been interrogated in former times upon this point, six or seven years ago, and I do confess I did see the man, and met him between *St. Martins-lane* and *Leicester-fields*; and truly my Lord I think I may say it was my unhappiness to meet with him; for I have had a great deal of trouble by it since, Subpoena upon Subpoena, trouble after trouble, that I am even weary of it; for I am an old man: but I do say I did meet him at that end of the Town, between *St. Martins-lane* and *Leicester-fields* in a strange disguise; he was just like a Vagrant, a very Rascal, and that's true I believe, my Lord.

Mr. Att. Gen. Did you know him before?

Mr. Walker. Yes, or I had not known him then.

L. C. J. When was this?

Mr. Walker. My Lord I'll tell you, my Lord Chief Justice *Scroggs*, when I was at the *Old-Bayly*, asked me if I knew what time it was, I saw him thus; said I my Lord, 'tis almost a year and a half since I saw him: and I being an old man, little thought it worth the while to lay up the particular time in my Memory; but I'll cast about in my thoughts to make the best conjecture I can; for now I will not be upon my Oath, it being but conjecture.

L. C. J. But now you are upon your Oath, remember that, man.

Mr. Walker. My Lord, I am speaking what I said to the Court at that time.

L. C. J. Pray do not tell us an old tedious Story of the questions and answers in the *Old-Bayly*; but mind what is said to you here: my question is now, what time you saw *Oates* disguised between *St. Martins-lane* and *Leicester-fields* as you say you did.

Mr. Walker. My Lord, I cannot prescribe the time, but I'll guess as near as I can with the best probability, and that is, upon this circumstance; when I went forward into *Leicester-fields*, in the Court before the House, I saw the Elm-Trees budded forth as big as an Hazle-Nut: so that I did conjecture by that Token; it might be between *Lady-day*, the latter end of *April*; that was the time as near as I could guess.

L. C. J. In what year was that?

Mr. Walker. I cannot very well tell what year it was.

L. C. J. Was it in 77 or 78.

Mr. Walker. Truly my Lord, I never thought it worth so much taking notice of, to fix the particular time in my memory.

Oates. Whether was it that year the Plot was discovered; or the *Michaelmas* following.

Mr. Walker. I cannot tell when the Plot was discovered, or whether it be found out yet or no?

Oates. But was it the year before you were Examined?

Mr. Walker. To answer you *Mr. Oates*, when it was exactly, I cannot say; truly I would give you the best satisfaction I could, and do you as much right as I would do my self; I think if that time when I was Examined, were in 77 or 78, it was near a year and a quarter before I did see you.

L. C. J. Well, what can you make of this?

Oates. 'Tis not to be supposed he is a very willing Witness, but yet he says, 'twas a year and a quarter before the Trial in which he was Examined, which must be in *April 78*.

L. C. J. I would know this question of you: were you present at the *Old-Bayley*, when the Five *Jesuits* were Tried?

Mr. Walker. I was there my Lord.

L. C. J. Were you at any Trial but one?

Mr. Walker. I was not Examined at any time but one.

L. C. J. Have you any more questions to ask him?

Mr. Walker. My Lord Chief Justice that then was, did ask me if I knew any of the Prisoners at the Bar, and I look'd upon all of them, and I said I knew not either of them.

Oates. Pray my Lord, ask him whether he was not produc'd, when the *St. Omers Men* were produc'd, and gave his evidence as to my being in Town at that time.

L. C. J. He hears the Question, let him answer it?

Mr. Walker. I am not able to answer you, because you put several Questions together; but this I say, I was never Examined but once, though I have been Subpoena'd often, to my great torment and trouble.

Oates. Did you give Evidence at that Trial, that you saw me in *April 78*?

Mr. Walker. I testified that I saw you, and by such circumstances, it must be about such a time as well as I could suggest; but I could not, nor cannot speak positively.

Oates. Now my Lord, I shall go on to another part of my Evidence, and call some other Witnesses, and first of all, I come to *Mr. Serjeant Maynard*, and I desire he may be sworn. (Which was done.)

L. C. J. What do you ask my Brother *Maynard*?

Oates. I call *Mr. Serjeant Maynard* to give an account of the Proceedings of the House of Commons upon my Discovery of the Popish Plot.

L. C. J. We will not admit that to be any Evidence at all; nor can it be by Law.

Oates. My Lord, *Mr. Serjeant Maynard* was one of the Committee of the House of Commons that managed the Impeachment, and can give an account of the Evidence and Records that were produc'd at the Trial of the late Viscount *Stafford*.

Mr. Serj. Maynard. I know nothing truly, nor can remember any thing of it now.

L. C. J. He says, he remembers nothing.

Mr. Serj. Maynard. If *Mr. Oates* had told me before hand, when he Subpoena'd me, what time, and what particular things he would have Examined me to, probably if I was there, I have Notes that I then took, but I can never swear to my Memory, for any Cause so long ago.

Oates. My Lord, I am very sorry *Mr. Serjeant Maynard's* Age should so impair his Memory.

L. C. J. I dare say, you are not more sorry than he is for his Age.

Oates. Well my Lord, I cannot help it: Then I desire *Mr. Blayney* may be ask'd whether he has his Notes of my Lord *Stafford's* Trial.

Mr. Blayney. No, my Lord, I have them not here; *Mr. Oates* by his Ticket of his Subpoena, desir'd only the Notes of *Ireland, Whitebread* and *Langbourns* Trial.

L. C. J.

L. C. J. But I must tell you *Mr. Oates*, if those Notes were here, they could be of no use to you without the Record of my Lord *Stafford's* Attainder; if you ask any thing upon another Trial, you must produce first the Record of that Trial, and then you may examine to what was given in Evidence at the Trial.

Oates. My Lord, it is of Record in the House of Lords.

L. C. J. But that we are not to take notice of, without the Record be brought in Evidence before us; we must go according to the course of Law in all Cases.

Oates. Then my Lord, I must betake my self to another part of my defence, and that is to prove the frequent attempts made to baffle the Discovery of this Popish Plot, and to misse the Murder of Sir *Edmundbury Godfrey*, and to sling it upon a Protestant Peer.

L. C. J. But that is no Evidence neither.

Mr. Justice Holloway. Surely that is very Collateral Evidence.

L. C. J. Nay, it is no Evidence at all in this Case; we must not admit of any such Evidence to be given.

Oates. Good my Lord, if this had not been true, which was sworn by Witnesses that had discovered the Plot, why should these Men appear to suborn Witnesses (and they have been Convicted of Subornation, and endeavouring) to baffle the Discovery, particularly as to Justice *Godfrey's* Death?

L. C. J. *Mr. Oates*, I must keep you to Evidence that is proper; we are upon our Oaths to go according to Law, and the Jury are upon their Oaths to Try this Cause according to their Evidence; and we are bound to give them this advice in point of Law, that nothing must weigh, or have any consideration with them, that you offer if it be not legal and proper Evidence; if you can say and prove that any of the Witnesses that have been produc'd this day against you, have been tamper'd with; or that they have tamper'd with any of the former Evidence, that is a good Evidence against them; but it must not be by any means admitted that the time of the Court be taken up, or the Jury enveigled by that which has not a natural tendency to the business before us.

Oates. But if your Lordship please, this Consult in April 78. was discovered to the House of Commons among the other parts of the Discovery of the Treasons of several Noble Men and Gentlemen: now upon the whole discovery of the Plot, I would desire that I might give in proof the Proceedings of the House of Commons.

L. C. J. No, no, you cannot.

Oates. Pray my Lord, is not the Journal of the House of Commons Evidence?

L. C. J. No, we say it is not at all.

Oates. Is that the Opinion of the whole Court my Lord?

L. C. J. Yes, undoubtedly, there is no question of it.

Oates. Is any Record of the House of Lords Evidence?

L. C. J. Yes, I tell you it is, and that because it is a Record; but there is a vast difference between the Records of the House of Lords, and the Journals of the House of Commons.

Oates. The Journals have been deliver'd in as Evidence before now.

L. C. J. I cannot tell what they have been, but I am sure they ought not to be, and whatever they have been elsewhere, they cannot be here; and I'll tell you a plain reason for it, because they have not so much power in the House of Commons as to give an Oath: but the House of Peers is a Court of Record, and therefore their Proceedings are Evidence as the Proceedings of the Kings Bench here; or any other Court of Record are.

Oates. Then my Lord if that part of my Evidence be over-ru'd; before I come to sum up my Evidence, I desire to offer this thing. My Lord, I can produce several Members of the House of Commons in the several Parliaments, that can remember how they proceeded against the Lords in the Tower, and the Popish Traitors upon my Discovery, and what credit I had in the House of Commons; Will that be Evidence pray my Lord?

L. C. J. No, it will not, if you will produce any one that you told this to before the publick Discovery, that may be Evidence such as it is, and is often allow'd; but what the House of Commons did upon the Discovery, that's not any Evidence at all.

Oates. Then my Lord, suppose I can prove, that I gave an Early and Timely account to any of the House of Lords of this Conspiracy, and did acquaint them with the Consult in April as part of it; I desire to know whether in producing any of those Lords, I shall give that which is Evidence.

L. C. J. Call whom you will that you told any thing to, that is a sort of Evidence, I tell you?

Oates. Then I call my Lord of *Devonshire*.

L. C. J.

L. C. J. Here is my Lord of *Devonshire*.

Oates. My Lord, I beg your pardon for the trouble I put your Lordship to; but your Lordship sees the necessity of it: it is for the justification of the Truth, to which I will give my Blood for a Seal if I be call'd to it.

L. C. J. My Lord of *Devonshire*, your Lordship must be sworn (which was done.)

Oates. Will your Lordship be pleased to acquaint the Court and the Jury (your Lordship being at that time a Member of the Commons House) what an account I gave there of this particular Consult (to keep to that point that is here in question) before the Court this day, and with what credit I was received in all these Parliaments; for my Credit and the Credit of the Parliament is now in question.

E. of Devonshire. My Lord, all I can say to it is this; you Mr. *Oates* gave a long account of a Consult and Conspiracy among the Jesuits; but I cannot remember any particular, it is so long ago.

L. C. J. Every Body knows this, you gave a long Narrative into the House of Commons and House of Lords too.

Oates. Ay, and it was a true one; but my Lord of *Devonshire*, I desire your Lordship would be pleased to give the Court and the Jury an account, with what credit I was received in those Three Parliaments your Lordship sat as Member in.

E. of Devonshire. I remember that the two *Westminster* Parliaments after the long Parliament, were so satisfied with the Discovery, that they passed a Vote in the House of Commons---

L. C. J. The Votes of the House of Commons are no Evidence at all.

Oates. They show what opinion the Parliament was of.

L. C. J. Many Votes, that have been made of late, I hope will neither be Evidence for, nor put in practice again.

E. of Devonshire. My Lord, it is well known to all the World the Vote I speak of.

L. C. J. Nay my Lord I speak not to your Lordship; for we all know those Votes that I speak of were not according to your Lordships mind: But we only say thus in General, that because the House of Commons cannot give an Oath, therefore what is done there, is not an Evidence here, or in any Court of Record.

Oates. But my Lord, that I must urge, I do perceive that in the time of Parliament, and during the Sitting of the House of Commons, Votes have been brought in as Barrs to the Proceedings of Inferior Courts; and this Court does not look upon it self as Superior to the Great Court of Parliament, and then if they may be brought---

L. C. J. Which they cannot be, nor never were, nor I am sure ought to be; nor I hope never will be as long as there is any Justice in the Nation.

Oates. But my Lord you will allow the Records of the House of Lords to be Evidence?

L. C. J. Yes, I tell you I will, and for that reason, because they are Records out of a Court of Record: an Order of Court Baron is no Evidence, because it is no Court of Record; but a Judgment of a Court Leet is Evidence, because it is a Court of Record; and there's the difference.

Oates. My Lord, I call in the next place my Lord of *Anglesey*, if he be in Court.

L. C. J. No, he is not here.

Oates. Pray will you give me leave to call my Lord Keeper then?

L. C. J. See in the Court of Chancery, whether my Lord Keeper be there.

Cryer. No my Lord he is not; he is gone.

Oates. He was Subpoena'd my Lord, and I can have Affidavit made of it: he was a material Witness for me.

L. C. J. I cannot help it; he is not here.

Oates. Pray call my Lord Chief Baron.

L. C. J. Go one of you into the Exchequer, and see if my Lord Chief Baron be there, and tell him Mr. *Oates* calls for him as a Witness.

Oates. And Mr. Justice *Levins*.

Cryer. The Courts are both up; and they are all gone.

Oates. They were Subpoena'd I am sure to be here; well go and see whether they are there or no.

L. C. J. In the mean time do you call some other Witnesses.

Oates. I call my Lord Chief Justice *Jones*.

L. C. J. The Cryer is gone to look for the Judges.

Oates. Then I call my Lord of *Clare*.

L. C. J. Here is my Lord of *Clare*.

E. of Clare. My Lord I can remember nothing it is so long time ago.

L. C. J. My Lord of *Clare* says he can remember nothing.

Oates.

Oates. I only call my Lord of *Clare* to ask him one question which I hope his Lordship will remember.

L. C. J. Swear my Lord of *Clare*, (which was done,) well what is it you ask my Lord?

Oates. My Lord of *Clare*, the question I would ask your Lordship is, with what credit I was received in the House of Lords upon my Discovery; and that you will to the best of your memory, give my Lord and the Jury an account, how the House of Peers proceeded upon my Evidence.

E. of Clare. Truly my Lord I cannot give any account; it is of so long standing.

Oates. It is a great while ago my Lord, and therefore it is hard measure that I must be brought to this Tryal so long after.

L. C. J. If it be a long time, we cannot help it: we cannot force People to prosecute sooner than they will do.

Oates. I desire Mr. Baron *Gregory* may be called.

L. C. J. He is not here, but see and call my Brother *Gregory*; I hear they are all together in the Treasury.

Oates. Then I call Mr. *Williams* that was Speaker in the House of Commons.

L. C. J. Here is Mr. *Williams*, (he was sworn.)

Oates. I desire, Mr. *Williams*, because you were then Speaker of the Commons House of Parliament, you would be pleased to tell what you remember concerning the credit I received in that Parliament in which you were Speaker, upon the Discovery I made of the Popish Plot; and particularly as to the Consult of Jesuits to kill the late King in the month of April. 78.

Mr. Williams. My Lord, my Memory is never very good; but especially in a case that is at such a distance of time, and which consists of so many Particulars as this, I mean Mr. *Oates* Discovery. But this my Lord I do remember; he was examin'd at the Bar of the House of Commons and gave a long account: but it is more than any man can do to tell every Particular that is said in that House.

L. C. J. Was he upon his Oath, Mr. *Williams*, at the Bar of the House of Commons?

Mr. Williams. My Lord, he was as other men are that are examin'd in the House of Commons.

L. C. J. We all know it could not be upon Oath, they have not Power to give an Oath.

Mr. Williams. What Reputation he was of, I cannot say so well as what their Proceedings did testify.

L. C. J. Nor in case they did believe him never so much, is it any thing to this question, which is, whether he swore true or false at *Ireland's* Tryal.

Mr. Williams. My Lord, when a Person is brought to the Barr, there to be a Witness in any Cause, every body is silent, and the Witness is heard what he has to say; and so was Mr. *Oates*: when he had done he withdrew; but what the Opinion of the House was upon it, I must submit to their Votes and Resolutions.

L. C. J. Which you know Mr. *Williams*, are no Evidence.

Mr. Williams. That I must submit to the Court.

Oates. I desire my Lord of *Clare* would be pleased to tell, if he remembers, what Credit the House of Lords gave me upon my Discovery.

E. of Clare. My Lord, I do not well hear Mr. *Oates* question.

Oates. My Lord, my question is this, when I was brought to the Bar of the Lords House, whether I did not receive the thanks of the Lords House for my Discovery?

E. of Clare. Truly Sir, at the beginning of the Discovery of the Popish Plot, I was not in Town, nor in the House.

L. C. J. But now Mr. *Oates* I hope you are satisfied by the answer that is given by your own Witnesses, that what is done in the House of Commons, is no Evidence; and I would have you remember that is the Reason of it, because they are no Court of Record, and because they cannot so much as give an Oath.

Oates. My Lord, I see my Lord of *Huntingdon* is here; and tho I did not Subpoena his Lordship, nor design'd to have troubled him; yet being here, I desire his Lordship would give the Court an account what Credit I had in the House of Lords upon my Discovery.

L. C. J. Swear my Lord of *Huntingdon* (which was done.)

E. of Huntingdon. I do believe my Lord, Mr. *Oates* Discovery found a good reception in the House of Lords; but it was grounded upon the opinion, that what he said was true, and that he was an honest man: for so the House then accounted him to be; and upon this it was their Lordships gave credit to his Testimony; and indeed had the matter been true, it was of high Importance to have it thoroughly examined: But since that time it being apparent there were so many, and great Contradictions, Fallities, and Perju-

ries in his Evidence; upon which so much innocent blood hath been shed, I believe a great many Persons who were concerned in the Trials of those unfortunate men, are heartily afflicted and sorry for their share in it: And I do believe most of the House of Peers have altered their opinion, as to this mans credit; and look upon his Evidence as I do, to be very false.

L. C. J. Do you hear him *Mr. Oates*?

Oates. No my Lord, I do not very well.

L. C. J. Then my Lord of *Huntingdon* turn your face to the Jury; and say what you said to us over again.

Which his Lordship did to the same Effect.

Oates. Very well my Lord.

Mr. J. Withens. There's your Credit with the House of Lords, *Mr. Oates.*

Oates. My Lord, I call'd you in to answer my question, as to somewhat what is past, and to give your judgment how you are inclin'd to believe now.

L. C. J. Nay, but with your favour, it was to declare what opinion the House of Lords had of you; and he says very well, and that is in truth the same answer that must be given, for the Judges and the Juries that try'd the People upon your Evidence: says my Lord of *Huntingdon* at first, truly I did believe *Mr. Oates* did swear true, and he had credit with me, and so he had with others; But now upon further Examination into things, and in process of time Discoveries have been made of the truth, and that what he swore, is false; so that now I believe in my Conscience he is actually forsworn, and has drawn innocent Blood upon the Nation; and no body will believe a word he says.

Oates. Well my Lord, I have done with my Lord of *Huntingdon*.

Mr. J. Withens. And he has done with you, as I perceive.

L. C. J. Yes, truly methinks ye shake hands and part very fairly.

Mr. J. Holloway. There's my Lord Chief Baron; what say you to him *Mr. Oates*?

L. C. J. Is my Lord Chief Baron sworn?

Cryer. Yes, my Lord, he is.

L. C. J. Then what do you ask him?

Oates. My Lord, I call'd your Lordship, because your Lordship sat as a Commissioner of Oyer and Terminer in the Old-Bayly, at *Ireland, Whitebread* and *Langborn's* Tryals; and that which I call your Lordship for, is to give an account to my Lord and the Jury, of the satisfaction your Lordship received concerning the fullness and fairness of the Evidence then delivered by me in those Tryals.

L. C. Baron. My Lord, I cannot charge my memory with it.

L. C. J. He says he cannot remember.

L. C. Baron. No not in particular; but in general I remember there was a great many Persons that gave Evidence in those Tryals on the one side and the other: There were a great many Persons that came from *St. Omers*, that gave Evidence there of *Mr. Oates* being at *St. Omers*, when he said he was in Town.

Oates. And what Credit were they of at that time, pray my Lord?

L. C. Baron. I think they were Persons of very good Credit; they were Gentlemen of good Families many of them.

Oates. Did the Jury believe them at that time?

L. C. Baron. I cannot tell what the Jury did.

L. C. J. Nor is it any matter at all what they did: But I would ask you my Lord but one question: Have you heard this Evidence that has been given here to day?

L. C. Baron. No my Lord, I have not.

L. C. J. If you had, I would then have ask'd you, whether you believe him now or not.

L. C. Baron. Truly my Lord, I never had any great Faith in him, I do assure you, as to my self.

Mr. J. Withens. You hear what he says *Mr. Oates*; you had never any great Credit with him.

Oates. My Lord, I am not at all concern'd at this; I value my self more upon my own Innocency and Integrity, than any Man's good or bad Opinion whatsoever.

L. C. J. Ah! your innocency is very great!

Oates. Then my Lord, I will conclude my Evidence.

Mr. Att. Gen.

Mr. Att. Gen. My Lord, before *Mr. Oates* goes to sum up his Evidence, we have some other Evidence to give.

L. C. J. What say you *Mr. Oates*? will you call any other Witnesses to this point?

Oates. My Lord, if they bring any other Evidence, I hope I may have my turn to answer it.

L. C. J. Ah! Truly, if they bring any new Evidence that you have not applied to already, God forbid, that you should not be heard; but if it only gives an answer to the Evidence that has been given, then you must not retort on them: for they are to have the last word; but it is not fit withal, that you should be denied any thing that is necessary or really of advantage to you.

Oates. If they offer any new Evidence to my dis-reputation, the question is, whether I may have a time allotted me to make my defence against that Evidence.

L. C. J. Ah! Ah! In God's name by all means?

Mr. Att. Gen. This is the usual method of Proceedings; but I would know if *Mr. Oates* has any more Witnesses to Examine to this point, that he has examin'd to already.

Oates. My Lord, I think I have no further Evidence at present, till I hear what they further say.

Mr. Att. Gen. Then may it please your Lordship, and you Gentlemen of the Jury —

Oates. I hope when your Lordship summs up the Evidence, you'll remember what has been said by the Witnesses.

L. C. J. You may assure your self, I will remember whatsoever has been said on the one side and t'other, as near as I can: the Gentlemen of the Jury are Men of understanding; and I see they take Notes, and Ple give them all the assistance I can.

Oates. Truly my Lord, I have some more Witnesses to the same purpose, if your Lordship please to spare time to hear them.

L. C. J. Ah! Ah! We sit here to hear the Witnesses, call whom you will.

Oates. Is my Lord *Lovelace* here?

L. C. J. I cannot tell, I do not see him here; but you did call my Brother *Gregory*, there he is, what say you to him?

Oates. *Mr. Baron Gregory* was Speaker of the House of Commons in one of the *Westminster* Parliaments.

L. C. J. Swear my Brother *Gregory*, (which was done.)

Oates. I desire your Honour would be pleas'd to give this Court and the Jury an account, you being Speaker of the House of Commons, what credit I received there in that House upon my discovery of the Popish Plot.

Mr. B. Gregory. My Lord, that is a pretty general question, it is not possible for me to remember the Proceedings in the House of Commons so long ago.

L. C. J. But Brother, I tell you what he means by it: he would have you to answer this question, whether he was of good credit in the House of Commons or not.

Mr. B. Gregory. I know not what answer to make about the credit he there had: any Member of the House of Commons may give as good and better an account in that matter than I; and truly I do not remember that *Mr. Oates* was before the Barr of the House when I was Speaker: I believe it was before I was Speaker, that he was Examined at the Commons Barr.

L. C. J. Well, he can remember nothing of it.

Oates. Is my Lord *Lovelace* there?

Crier. He has been call'd, but he is not here.

Oates. Call my Lord of *Stamford*.

Crier. He is not here.

Oates. Call Sir *Francis Winnington*.

Crier. He is not here.

Oates. Call Sir *John Titus Esq;*

Crier. He is not here.

Oates. Call Sir *George Treby*.

Crier. He is not here.

Oates. Call Sir *Francis Pemberton*: These have been all Subpoena'd.

Crier. He is not here.

Oates. Is my Lord Bishop of *London*?

L. C. J. Here is my Lord Bishop of *London*; pray swear my Lord Bishop of *London* (which was done.)

Oates. I beg your Lordship, if you can, would give an account of your remembrance in this matter: your Lordship was often in Committees of the House of Peers about this business, and from first to last, you were in the Committee for further Examination of the Popish Plot; And you were not only of the Committee, but you also sat as a Baron in the House.

I humbly beg your Lordship would please to tell as far as you can charge your Memory, what Reputation I had in the House of Lords, where I was upon my Oath, and in particular, whether your Lordship remembers that I received the thanks of the House for the Service I had done for the King and Kingdom in the Discovery.

Mr. J. Holloway. It is a long question my Lord.

L. B. of London. It is so my Lord; but my answer will be very short: for it is a very little I can remember after so great a distance of time, and the transactions have been publick; nor can I acquaint the Court with any thing, but what is known already; and that is this, I remember that the Plot was discovered by him, and his discovery was receiv'd as Evidence at the Barr of the House of Lords, and believ'd, and the thanks of the House were given him at that time for it.

L. C. J. There's Sir George Treby, What do you ask him? but first let him be sworn? (which was done.)

Oates. Pray be pleas'd to ask Sir George Treby, who was Chair-man of the Committee of Secrecy, and was manager in the Trial of the Lord Viscount Stafford, that he will be pleas'd to tell what Credit I had in both Houses upon that Trial.

L. C. J. I told you before, you must urge nothing of that Trial, unless you have the Record here.

Oates. Then my Lord, I desire Sir George may give an account what he knows of the correspondencies between Mr. Coleman and the *Sse of Rome*.

L. C. J. No, that will not be any Evidence at all in this case; for that is not at all here in question.

Oates. Then my Lord, I desire Sir George Treby may speak what he knows of my Credit in this House of Commons.

L. C. J. Ah! What says he to that?

Sir George Treby. My Lord, I can answer for nothing but my own Judgment; I cannot tell what Credit he had with any particular Member of the House of Commons; I do remember indeed, he was there several times at the Barr, but not upon Oath, but as others usually are there, and concerning the discovery: there was a Vote all the Kingdom knows of, that they were satisfied there was a Plot, but whether that Vote was grounded altogether upon his Evidence, or how far upon his Evidence, I cannot tell, nor what any Man thought of it besides my self.

Oates. I desire Mr. Serj. Pemberton might be call'd again.

Crier. He is not here.

Oates. Then pray call Sir William Dolben.

Crier. He is not here neither.

Oates. Then I call Sir Edward Atkins.

Crier. He is not here.

Oates. Call Mr. Richard White.

Crier. He is not here.

Oates. My Lord, these were all Suborn'd, but they will not come; they are frighted away.

L. C. J. We know nothing of that, they may come if they will.

Oates. Call Mr. Thomas Cox.

Crier. He is not here, but here is Mr. White.

Oates. I pray he may be sworn, (which was done) I desire to know of him whether he were not a Jury man upon the Trials of Ireland and Whitebread.

Mr. White. No, I was not.

Oates. Then I am mistaken, I beg your pardon for this trouble.

L. C. J. Well, there's my Brother Dolben come now. What say you to him? Swear my Brother Dolben? (which was done.)

Oates. May it please you Sir William Dolben, you sate as a Judge upon the Trials of Mr. Ireland, Mr. Whitebread and Mr. Langhorn; and I call you, Sir William Dolben, to give an account to my Lord and the Jury, what Credit my Evidence had at those Tryals, and how the Jury was satisfied with it.

L. C. J. There is the Verdict man, that finds the Persons you speak of Guilty.

Oates. If that be Evidence enough, I am satisfied my Lord.

L. C. J. Is not that better than his Opinion to show how the Jury was satisfied; Ah! certainly better than the Opinion of all the twelve Judges; for that point they would not have Convicted them, except they had been satisfied with the Evidence.

Sir William Dolben. Have you done with me Sir?

Oates. I have Sir.

L. C. J. Have you call'd all your Witnesses, or will you call any more?

Oates. No my Lord, I will call no more at present.

Mr. Att. Gen.

Mr. Att. Gen. Then my Lord we'll go on with another part of our Evidence. Gentlemen, you see Dr. Oates, to support his Credit, has given two sorts of Evidence; the one is, some Records of Tryals at the Old-Bayly, wherein he had the good hap to be believ'd: the other is several noble Persons, and other Gentlemen, as to the Credit he has had given to his Evidence before. What they have said, I shall not meddle with at all at this time, but leave the Observations that are to be made thereupon, till we come to sum up the Evidence for the King. But as to the first part of his Evidence, that is, as to the Records produced, and the Verdicts therein given, and the Opinions of the Judges, we have this to say in point of Evidence as an answer. 1. We shall produce to you, several Records, wherein he has not been believ'd; as that of Sir George Wakeman, and my Lord Castlemain; and not only so, but we shall actually prove that he was perjur'd in them; that what he swore against them was utterly false, and you will hear, this was not the first time that he had sworn false: for in an Accusation that he gave at a Tryal at *Hastings*, we shall prove he swore Buggery upon a Person, which was prov'd false.

Oates. Can you produce any such Record Mr. Attorney?

Mr. Att. Gen. Yes, we shall.

L. C. J. Do not interrupt the Kings Council; let them go on: you shall be heard quietly in your time.

Mr. Hanses. Nay, Mr. Oates need not be so hasty to ask for the Records, by degrees we shall produce Records enough against him.

Mr. Att. Gen. We shall prove also by the Journals of the Lords House, that he did forswear himself: for after he had there made a long Narrative of the Plot, being askt whether he had any more to accuse, than those Persons that he had nam'd, and this upon his Oath; he did there swear that he had no more Persons to accuse.

Oates. That were Members of that House, it was.

L. C. J. Sir, you must be quiet till they have done.

Mr. Att. Gen. But soon after he bethought himself, and accuses the Queen and His Royal Highness the Duke, our now present Sovereign, of being in the Plot.

Oates. What Plot did I accuse them of?

L. C. J. Nay, you must sit down and be quiet; how now, will you not let the Kings Council speak? you were heard quietly, and so shall they be too.

Oates. Well my Lord, I will be quiet.

Mr. Att. Gen. These things, my Lord, will show of what Credit he was of at that time: Another thing we say to these Records, is this; There were two other Witnesses, Mr. Clay and Mr. Smith, besides those that were now produced, which were the home Witnesses, that did positively swear, that in April and May 78. Oates was here in Town: he did then indeed make use of those other canting Witnesses, for I cannot call them any otherwise, that beat so about the Bush, and speak of uncertainties, and contradict one another; but those that I name, Clay and Smith, were home Witnesses, and there lay the Credit of his being in Town, when the Witnesses which came from St. Omers, say he was beyond Sea.

Oates. My Lord, I beg I may ask one thing; whether my Lord Bishop of London be there still?

L. C. J. No, my Lord of London is gone.

Oates. I am sorry for it, because he could have given an account of this Smith, for he knows him.

L. C. J. I cannot help it, you should have desir'd him to stay while he was here; go on Mr. Attorney.

Mr. Att. Gen. I will my Lord; and this which I am going to say, as an answer to his Evidence, which will give a full answer to that other Objection which he made; which was, what was the Reason, when he had given such an Evidence so long ago, it should be delayed so long ere it was prosecuted. I'll give your Lordship a Reason, and a satisfactory one, till those Discoveries were made that have lately been made: The Evidence these Witnesses gave, carried a probability of truth in it; and Sir Richard Barker himself added his Testimony to it, tho he does not think fit now to come and confirm it: I say hitherto it had some semblance of truth; and so did ballance the other Testimony of them that came from St. Omers: But when we had discover'd that it could be testified by twenty Persons, that had not been at any of the former Tryals, that he was certainly all that time at St. Omers; and when we had discover'd the Tampering and Practices of Mr. Oates in Suborning these Witnesses to swear as corruptly as he swore at first; which we shall show, you palpably to be true that he did so; that gave us encouragement to go on to make enquiry into the matter; but this was not discover'd till half a year ago, or thereabouts. Now as to one of those Witnesses, that is Mr. Clay, the case stands thus; indeed I expected he would have brought

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the same Witnesses he did then; for I presume they are all about Town, but he has not thought fit to do that: This *Clay* was then a Priest, and a Prisoner in the Gate-house for that very reason as being accused for being a Romish Priest; while he was there a Prisoner, *Mr. Oates* comes and threatens him, and solicits him to swear that he was here in Town in *May 78*, that he might be provided with proof against what the Boys of *St. Omers* (as he call'd them) would come to testify; and threaten'd him if he did not, he would hang him, for he could swear him to be a Priest; and this was about three or four days before the Tryal of the Five Jesuits: At length they came to a Bargain and Agreement, as you will hear, that he should come and swear this; when *Mr. Oates* cannot pretend that the Evidence of *Clay* was known at all by any of the Committees that were concern'd in the management of his Discovery; or that he was so much as thought of for a Witness. But we shall prove how it came to pass; and I believe, if *Mr. Oates* would call him now, (as I do not question he knows where to have him) *Clay* would not be so hardy now, as to affirm his former Testimony. Then as for *Mr. Smith*, his Case stands thus: *Mr. Oates* had sworn him into the Plot, as you will find in his Narrative that he gave in upon Oath, which is upon Record, and enter'd in the Journals of the Lords House. He was a School-Master in *Islington*, and *Oates* swears High Treason against him; and thereupon Warrants went out to take this *Smith*, and *Mr. Oates* was very violent in the pursuit of him but two or three days before the Tryal; and then, when all these Witnesses from *St. Omers* were come, as he knew very well, he was in some doubt his design would have fail'd, and then does he prevail with *Smith* to become a Witness for him. And 'tis evident he did tamper with him, from that which was done by him at that time: For now he gives him under his hand, (to shew the Impudence, as well as Villany of the man) as it has been evident enough in all his carriage) a Paper that should give him Authority to go free from all Process and Arrests upon any Warrants; and this Protection under *Mr. Oates* hand, is directed to all the Kings Officers, thereby commanding them to take notice that this *Mr. Smith*, whom before he had accus'd of being in the Plot, was an honest man, and employed in great Service for the King at that time. This Paper, when produc'd, will show the time when it was made; and then it will appear, that two days after *Smith* comes and Swears that he din'd with him the first Monday in *May* in 78. This was what *Smith* swore then; and upon my mentioning of this Practice, if he have any shame in him, it must put him in some confusion: for we are prepar'd to prove by undeniable Testimony, that *Mr. Oates* did not dine with this *Mr. Smith* that day: we shall prove it by the whole Family; but the first time ever *Mr. Oates* came there, was in *July* after, when he came into *England* from *St. Omers*, which these Witnesses say, was the latter end of *June*. Then it was that he was with *Mr. Smith*, and came to his House, and not before. And we shall prove by several Witnesses, that upon the questions being asked of *Mr. Smith*, how he came to testify such a thing, his answer was, I must have died for it, if I had not don't, 'twas only a mistake in point of time: But he threaten'd me, and so did some others too, that he would have me hang'd for being in the Plot, if I did not comply with him, and swear this for him. My Lord, I shall offer this Evidence that I have open'd, and then I hope we shall satisfy the Jury, and all that hear this Tryal, that he is one of the most notorious Villains that liv'd upon the Earth; to be sure that ever was known in this Kingdom.

Mr. Sol. Gen. First my Lord, we'll produce our Records, where is the Record of Sir *George Wakeman*.

Mr. Swift. This is the Record of Sir *George Wakeman*, and this is a true Copy, I examin'd it.

Mr. Sol. Gen. Pray Sir *Samuel Astry*, read a word or two of it.

C. Crown. Here is an Indictment against Sir *George Wakeman* for High Treason, he pleaded not Guilty; and here is an Acquittal by the Jury.

Mr. Att. Gen. He being acquitted, I desire he may be sworn, (which was done.)

Mr. Sol. Gen. Pray Sir *George Wakeman*, was *Mr. Oates* sworn against you at the Tryal?

S. G. Wakeman. Yes *Mr. Solicitor*, he was.

Mr. Sol. Gen. Do you remember what he swore against you at that Tryal?

S. G. Wakeman. Yes, I do Sir.

Mr. Sol. Gen. Was that true that he swore, by the Oath you have taken?

Oates. Is that a fair question? I desire the opinion of the Court.

L. C. J. Ah! Why not?

Oates. He was legally accus'd; he cannot swear himself off.

L. C. J. But he is legally acquitted to; we have a Record for that here.

Oates. Ah! My Lord; he was acquitted, it's well known how.

Mr. Sol. Gen. Come Sir, was that he swore against you at your Trial true?

S. G. Wake.

Sir *G. Wakeman*. 'Twas false.

L. C. J. What do you say Sir ?

Sir *G. Wakeman*. 'Twas false upon my Oath, my Lord.

Mr. *Soll. Gen.* What particulars did he swear against you ?

Mr. *Pollexfen*. Ah ! Pray tell the particulars as near as you can what he swore against you.

Sir *G. Wakeman*. My Lord, if your Lordship please, I will give a little account what he swore against me before the King and Council.

Mr. *Soll. Gen.* That will not do Sir *George Wakeman*, we do not ask you that.

L. C. J. No, it must be only the Evidence that was given upon this Acquittal, which is the Record here produc'd before us; what did he swear against you then ?

Sir *G. Wakeman*. He swore at that Trial as near as I can remember, that I undertook for a certain Summ of Money, 15000 l. as I think it was to poyson the King, and I was to do it by the means of the Queen. I was to provide this Poyson by for her, and she was to give it to the King. This he swore at my Trial, which God forbid it should be true; nothing can be more false.

L. C. J. I ask you by the Oath you have taken, you are now quitted, and so in no danger; and being upon your Oath, ought to speak the truth without malice or ill will to him that did accuse you; was that he swore true or false ?

Sir *G. Wakeman*. False, false, upon my Oath; I speak it without any malice against the Man in the World.

Mr. *Att. Gen.* Then swear my Lord *Castlemain*, (which was done.)

Sir *G. Wakeman*. My Lord, I'll be bound to make it appear, that all he swore against me was false.

Mr. *Att. Gen.* And so was it he swore against my Lord *Castlemain* and others that were acquitted at the same time with Sir *George Wakeman*.

Mr. *Soll. Gen.* First read the Record of my Lord *Castlemain's* Acquittal.

C. Crown. Here is the very Record it self: It was in this Court my Lord *Castlemain* was Indicted of High Treason, and Tried and Acquitted.

Mr. *Att. Gen.* My Lord *Castlemain*, pray what did *Oates* swear against you at your Trial and pray tell the Court whether that was true or false.

E. of Castlemain. My Lord, as near as I remember, Mr. *Oates* did swear at my Trial, that he met me in *Lincolns-Inn-fields*, and that he went with me somewhere to Mr. *Fenwick's* Chamber in *Dukes-street* in *Covent-garden*, where he said I did talk a great deal of Treason, and a great discourse of that kind he said there was, and he swore that I was in several Cabals in relation to the Kings death: I was afterwards acquitted by the Jury that Tri'd me, as appears by the Record; and here I do declare, as in the presence of God, and with all the Imprecations of divine vengeance to fall upon me, if I speak any thing but the truth, that not only that which he swore was false, but that I never had any thoughts in my heart, much less did ever declare in my words of any injury or hurt against the late King. And besides, that I never saw the face of *Oates* in my life, till after I was put in Prison upon his accusation of me.

Oates. My Lord, I desire to know what Religion that Noble Lord is of ?

E. of Castlemain. I am a Roman Catholick my Lord.

L. C. J. We all know what Religion my Lord is of, you need not ask that question.

Oates. That's not the point my Lord, I must have declar'd in Evidence.

L. C. J. I wonder to see any Man that has the face of a Man carry it at this rate, when he hears such an Evidence brought in against him.

Oates. I wonder that Mr. *Attorney* will offer to bring this Evidence; Men that must have malice against me —

L. C. J. Hold your Tongue; you are a shame to Mankind.

Oates. No, my Lord, I am neither a shame to my self or Mankind: what I have sworn is true, and I will stand by it to my last breath, and seal it if occasion be with my Blood.

L. C. J. 'Twere pitty but that it were to be done by thy Blood.

Oates. Ah! Ah! my Lord, I know why all this is, and so may the World very easily too.

L. C. J. Such impudence and impiety was never known in any Christian Nation.

Oates. But this will not do the work to make the Plot to be disbelieved; things are not to be done by great noises: I will stand by the truth.

L. C. J. Can you think to out-face such Evidence as this with your Impudence ?

Oates. But I hope you'll give me leave to make my defence.

L. C. J. Then carry your self as becomes you in the Court.

Oates.

Oates. My Lord, I will do so.

L. C. J. If you do not, we know how to make you do it, you shall not think to Domineer here.

Oates. My Lord, I hope I do behave my self as I ought.

L. C. J. No, You do not.

Oates. Ill Language may provoke any Mans Passion my Lord.

L. C. J. Keep your self within bounds, and you shall be heard; but we'll suffer none of your Extravagancies.

Oates. My Lord, I had been aware of this, I could have produc'd Evidence that would have supported my Testimony in these matters.

L. C. J. Go on with your Proofs Mr. Attorney.

Mr. Attorney. We will do so my Lord.

Every Gentleman. Have you done with me Sir?

L. C. J. Have you any other questions to ask my Lord Castlemain?

Mr. Att. Gen. No, my Lord.

L. C. J. Then your Lordship may sit down again where you were.

Mr. Att. Gen. Now my Lord, we shall show the Lords Journal where it is Recorded, that he swore, he could accuse no body else but those that he nam'd, and then we shall give an account that soon after, he accus'd our present Sovereign, and the Queen Dowager.

Mr. Sol. Gen. Where is the Clerk of the Parliament.

Mr. Swift. Here he is. *Mr. Walker,*

Mr. Att. Gen. Swear him, (which was done.)

Mr. Sol. Gen. *Mr. Walker,* is that the Journal of the House of Lords.

Mr. Walker. Yes, my Lord, it is.

Mr. Sol. Gen. Deliver it in to the Clerk, and let him read it.

L. C. J. Then you must direct to the time, or else it will be to no purpose.

Mr. Swift. Sir *Samuel Astrey* pray turn to Friday the 29th. of November 78.

C. of Crown Reads. *Die veneris decimo nono Novembris 1678. Titus Oates* being call'd in at the Barr, desired to be heard a few words before he was sworn.

L. C. J. *Mr. Attorney,* I doubt this will not be Evidence: it is only a Paper of what he said, taken before the Lords; but now whether that was upon Oath or no, is the question, may it appears it was not upon Oath; but says, it was before he was sworn.

Mr. Att. Gen. My Lord, I desire it may be read all out.

O. Crown Reads. *Titus Oates* being call'd in at the Barr, desired he might be heard a few words, before he was sworn to speak to the main business, which being granted to him, he complain'd of the restraint he is under, and being debar'd of the liberty of his Friends coming to him, and of conversing with any body in private, and that no *English-man* ought to be restrain'd, unless accus'd by one or more Witnesses; and pray'd that the restraint might be taken off, that he might be enabled to give his Evidence more cheerfully, and that the House would be pleas'd to address to the King for that purpose, and that his pardon may be renewed, because he is under misprision of Treason, to which the Lord Chancellor told him, that the House would take his condition into consideration, and then being sworn, he was told by the Lord Chancellor, that the Lords have received an Address from the House of Commons in part upon Evidence by him given there, and that the House expects he should give an account what that is, which has begot such astonishment in the House of Commons as is expressed in the Address, upon which *Titus Oates* said, that in July last, he saw a Letter from Sir *George Wakeman* —

L. C. J. Is this Evidence Mr. Attorney?

Mr. Att. Gen. My Lord, the use we make of it is to prove that he did accuse the Queen.

L. C. J. What is the accusation of the Queen to this purpose?

Mr. Att. Gen. My Lord, we say he had sworn several days before that he had no other persons to accuse.

L. C. J. You should produce that first that he swore so.

Mr. Att. Gen. My Lord, we should so, I think, and I thought it had been so done.

L. C. J. This is no Evidence, for it is not upon Oath; it does not say so.

Mr. Att. Gen. Yes, it does my Lord; but we will go on in order.

L. C. J. Come then, let us see what was sworn about his having no more Persons to accuse.

Mr. Att. Gen. Pray Sir *Samuel Astrey* look the 30th. of October 78.

C. of Crown. (Read) *Die Mercurii 30. Octobris 1678. Titus Oates* being call'd in, was sworn at the Barr, and requir'd to answer to what he is now call'd in for concerning his discourse with the Lord *Annesly* last night, about the Duke of York.

L. C. J.

L. C. J. I doubt this will not be Evidence neither; for we are now speaking only about what shall be Evidence: We are not now meddling with the methods of the House in their Examination of Witnesses, but what is Evidence here; suppose an Oath be administered to me for a particular purpose in the House of Lords, that I shall answer to what is asked me concerning a discourse that I had with a third person.

Mr. Att. Gen. Pray *Sir Sam. Astley* look the next day; for there my Lord, he is examin'd upon the general.

Sir Sam. Astley (Reads) *Die Febris 31 of Octobris 1678.*

Mr. Att. Gen. But first read the latter end of the former days Proceedings, beginning at those words upon consideration.

Crown. (Reads) Upon consideration of what *Titus Oates* had said, he was call'd in again, and told by the Lord Chancellor that the House has directed he shall be heard again to-morrow at Nine a Clock, and the Lords do expect that by the Oath he hath now taken, he should go thorow with what he hath to say, and therefore he should prepare himself to deliver the whole truth of what he knows concerning the design against the Kings Person, and the Government of this Kingdom.

L. C. J. But still *Mr. Attorney*, we are but where we were; for supposing upon my Examination upon Oath given me in the House of Lords to a particular purpose, That my Lord Chancellor should tell me here; my Lords intend to-morrow, that you by virtue of the Oath now given you, should come and give them satisfaction as to other questions, I doubt that would not be Evidence in *Westminster-hall*: let us not stretch any thing further than it should be upon any account whatsoever: for suppose I give you an Oath to make true answer to such questions as I shall ask you concerning what was said at the Sessions-house at such a Trial, and then I come after and ask you upon the Oath you have taken, what do you say concerning such a business 7 Years ago, would that be Evidence?

Mr. Att. Gen. With submission my Lord, if a Man be told he is upon his Oath, to say all he knows of such a design, what he says upon that Oath, is Evidence.

L. C. J. You say very true *Mr. Attorney*, if I give him a general Oath; but what he says concerning any other matter than that particular thing, which he was sworn to give an account of, can never be Evidence.

Mr. Soll. Gen. Truly my Lord, I think we need not labour in such a thing as this is.

L. C. J. Truly *Mr. Solicitor*, I think it is no Evidence at all, if you can prove he was sworn to his whole Narrative, and can bring any thing out of that, You say something.

Mr. Att. Gen. We desire that my Lord of *Berkley* may be sworn, (which was done.)

L. C. J. What do you ask him?

Mr. Att. G. Pray my Lord, will you give the Court and the Jury an account whether *M. Oates* was not sworn to his Narrative, and deliver'd in his Evidence at your Lordships Barr upon Oath.

L. C. J. My Lord of *Berkley*, let me ask you this question, was every thing that he gave an account of at the Barr of the Lords House, given in upon Oath?

E. of Berkley. I cannot remember that my Lord.

L. C. J. It is impossible that he should.

E. of Berkley. All I can testify is but what I answered to the question, which was asked me at my Lord *Stafford's* Trial.

L. C. J. But that is not material now my Lord, because the Record of that Trial is not here.

E. of Berkley. The same thing is entered here particularly.

Mr. Att. Gen. My Lord, we desire it may be read again.

L. C. J. Read it again with all my Heart.

L. C. J. This is a particular Oath to a particular purpose; and shall I help it by intending that he was afterwards sworn to the general matter? No, I will not: suppose any thing had happen'd afterwards that it should have been thought fit to prosecute *Oates*; Could the Man have been Convicted of Perjury for this? certainly he never could.

Mr. Soll. Gen. Well my Lord, we submit it to you; but we will now go on to prove that which *Mr. Attorney* opened, that *Oates* did suborn these Witnesses to swear what they did swear: you have had one part of the Evidence that was then given; now we shall prove that *Clay* was sworn at *Whitebreads* Trial, and what he did there testify about *Oates* being in Town.

Oates. I own it, he was sworn then.

Mr. Att. Gen. Do you own that you suborn'd him?

Oates. No, I think not *Mr. Attorney*.

Mr. Soll. Gen. Then we will prove that you did tamper with him, and by threatenings prevail'd with him to swear for you.

Mr. Att. Gen. Nay, we will prove that he was mistaken in what he did swear a whole Year. Pray call *Mr. Charles Howard*.

R

Oates.

Oates. My Lord, I desire I may have leave to ask the Court a question, and I beg the Opinion of the Court in it, whether a Popish Recusant Convicted, may be a good Witness.

L. C. J. We are not bound to answer your question; for we see no ground why you should ask it; if you have any occasion to object against any Witness, and can produce any Record against him; then we will tell you more of our minds.

Oates. Pray then let me ask you another question my Lord.

L. C. J. Prethee do not trouble us with thy questions, let them go on with their Evidence.

Oates. My Lord, I desire to know whether a Man confessing himself a Popish Priest

L. C. J. We do not sit here to answer every idle question; 'tis nothing at all to the purpose: When you ask a proper question, we will answer it.

Oates. Yes, it is my Lord, and you are of my Council in matter of Law.

L. C. J. I am not so.

Oates. Yes, my Lord, the Court is always of Council for the Prisoner.

L. C. J. That were well indeed, if we were bound to give advice in every case where a Man is Prosecuted at the Kings Suit; indeed in those cases where a Man can have no Council allow'd him, the Court is of Council for him; but where he may have Council, the Judges are not of Council for him.

Mr. J. Holloway. Besides, We are not here putting of Cases, but trying of a Cause.

Mr. Sol. Gen. Here is Mr. Charles Howard, swear him, (which was done.)

Mr. Att. Gen. My Lord, we bring this Gentleman Mr. Charles Howard only to this part of our Evidence, to prove that Mr. Clay was mistaken a whole Year, mistook 78 for 77.

L. C. J. But Mr. Solicitor, if you take this confused method, we shall never be at an end, and for my part I cannot make any thing of it; it is impossible for me to retain these things in memorie, so as to give any direction to the Jury, if there be not a method used: for do you think that it is possible for any Man to retain in his head, a hundred things huddled up and down without any order.

Mr. Sol. Gen. We beg your Lordships patience but a little while, and we shall have it in very good order. Swear Higgins, (which was done.)

L. C. J. Pray what do you ask him?

Mr. Att. Gen. The matter we examine him to is this; for I would open to you the nature of our Evidence, 1. He swore Smith into the Plot, and then gave him a Certificate, that he was an honest Man.

L. C. J. Is that Oates's hand.

Mr. Att. Gen. We shall prove it to be so.

L. C. J. You must first prove what he swore of Smith.

Mr. Att. Gen. My Lord, We desire that we may read his Narrative.

L. C. J. But first prove it Mr. Attorney.

Mr. Att. Gen. It is upon Record in the House of Lords.

L. C. J. Was that delivered in upon Oath to the House of Lords, or else we shall be but where we were.

Mr. Att. Gen. For proof of that we call my Lord Bridgewater.

L. C. J. Here he is, swear my Lord, (which was done.)

Mr. Att. Gen. My Lord Bridgewater, do you remember the Narrative that Oates gave in to the House of Lords, and was it upon Oath? but first of all if you please, I desire my Lord may see the Book, whether any thing be there under his hand, and then whether it be entered to be upon Oath, and whether this be the Journal agreeing with the Paper deliver'd in.

L. C. J. This is a Narrative my Lord, that he himself deliver'd in, and I would ask my Lord Bridgewater this one question: Was not this Journal compar'd with the Narrative given in upon Oath by Order of the Lords House.

E. Bridgewater. Yes, I must say I was one of the Committee appointed to take care of the Journal, and here is my hand to it among other Lords, and that is a Copy of what M. Oates did deliver in as his Narrative, which was inserted upon a report of the Committee into the Journal Book by Order of the Lords, and we did examine the Narrative with the Book.

L. C. J. But what is all this to our purpose now; do not mistake me my Lord Bridgewater, I do not speak to you now, but to Mr. Attorney: What does this prove as to the matter in hand?

Mr. Att. Gen. Pray my Lord Bridgewater, did you see the Narrative brought in by Oates?

E. Bridgewater. That Narrative was delivered to us by the Clerk of the Parliament.

L. C. J. But my Lord, do you know that Narrative was given in upon Oath?

E. Bridgewater. I know no other, but that the Clerk of the Parliament brought it to us.

Mr. Att. Gen. Here is the Clerk of the Parliament, will tell you that Oates was sworn to it.

L. C. J. Prove it if you can; but hitherto I see nothing that looks like Evidence.

Mr. Att. Gen.

Mr. Att. Gen. Really my Lord, I should take it to be as much Evidence as any that ever was offer'd in the World.

L. C. J. Pray Mr. Attorney let us Reason the Point a little ; suppose you bring an answer in Chancery ; except the man be sworn to it, can you read his answer ; and yet I ever look'd upon an answer in Chancery as Evidence.

Mr. Att. Gen. In that case the Record proves it self, and so it should here ; and therefore we desire it may be read.

L. C. J. But surely you would not allow an answer to be Evidence, unless you prove it to be sworn.

Mr. Att. Gen. Truly my Lord I always took it, that we need not come to prove a man was actually sworn to his answer ; but if it be once enter'd upon Record in Chancery, it proves it self.

L. C. J. It is true Mr. Attorney, if it appears upon Record that the answer was sworn.

Mr. Att. Gen. My Lord, if this Journal of the House of Lords is a Record, then that which is enter'd into it is a Record ; 'tis a thing recorded as a Deed inrolled is, and proves it self.

L. C. J. Mr. Attorney, either we mistake one another, or we do not differ in opinion : if you could make it appear that *Oates* brought this thing in the House of Lords, and deliver'd it upon Oath, that were Evidence ; otherwise I cannot see how you can make Evidence of it.

Mr. Att. Gen. I always thought my Lord, that a Record out of a Court of Record, would have that Credit in another Court of Record, as to be read.

L. C. J. My Lord *Bridgewater* tells you, 'it was deliver'd to them by the Clerk of the Parliament.

Mr. Att. Gen. Pray my Lord let the Clerk read what is at the end thereof.

C. Crown. (Reads) Hitherto examin'd the third of December 1678. The Narrative and Examinations of *Titus Oates*, being first insert'd according to the Order of the House, of the 21. of November last, by us *Anglesey, &c.*

Mr. Att. Gen. Pray read the Order of the 21. of November.

C. Crown. (Reads) *Die Jovis* 21. of November 1678. Upon Report made by the Earl of *Bridgewater*, from the Lords Sub-Committees for the examining the Journal of this House: That upon Examination thereof, their Lordships find, that the Narrative made upon Oath by *Titus Oates* at the Barr on the 31. of October last, of the Horrid Design against His Majesties Person and Government ; is only mentioned in the Journal, but not enter'd at large in such manner as he then related it ; and that therefore their Lordships desire, the direction of the House concerning this matter : it is thereupon ordered, that the said Narrative made by *Titus Oates* on the said 31. of October, shall be enter'd at large, and insert'd in the Journal, as the part of the business of that day.

L. C. J. Now you make it Evidence ; for it appears that he was sworn, and gave his Narrative upon Oath.

Mr. Att. Gen. Then now my Lord, I hope we may read it.

L. C. J. Ay, read it.

Mr. Att. Gen. Read the 54. Article.

C. Crown. (Reads) This is the Narrative of *Titus Oates*, the 54. Article. That one *Matthew Medborne* a Player in the Dukes Theatre ; one *Mr. Penny*, *Mr. Mannock*, *Mr. Sharpe*, and *Mr. Seddon*, and one *William Smith* a School-master at *Issington*, and one *Edward Everard* and others, meeting in a Club on Thursday nights, and Sunday nights, with one *Jones* a Priest, and one *Keymash* within mentioned ; and all these Persons are employed by the Jesuits, to vilifie the House of Commons, and to go about the City to incense the People against them, and against the Bishops of the Nation ; and they deliver this Treasonable Position, That the Commons assembled in Parliament, are the Devils Representatives and not the Nations ; with treasonable and detestable words, the Deponent did hear at the said Club which is kept at *Fuller's Rents* near *Grey's Inn*. And in the month of *August* the Deponent was ordered by the Jesuits in *London*, to give the said Persons great Respects, and in their names to thank the Club for their faithfulness to them in that particular.

Mr. Att. Gen. Thus you see what he had sworn against him ; now we shall shew how he dealt with him. Is that *Mr. Oates* his hand ? *Witness.* It is ; yes I believe it is.

Mr. Att. Gen. I believe he will hardly deny it himself.

Oates. Let me see it I pray you, Mr. Attorney.

Mr. Att. Gen. Show it him, (which was done) is that your hand ?

Oates. I

Oates. I cannot say it is my hand; nor do I believe it to be so.

L. C. J. He does not own it to be his hand.

Oates. I do not say it is not my hand; but I do not remember any thing of it.

Mr. Att. Gen. Read it Sir, pray you.

L. C. J. What is it you would read?

Mr. Att. Gen. A Certificate under *Oates* hand of *Mr. Smith's* honesty, not three days before the Tryal of the Five Jesuits.

L. C. J. Read it, let us hear what it is.

These are to certifie that William Smith is no Papist; and that he is upon good Service at this time for his King and Country; of which, I hope, those that are Inquirers after Recusants will take notice. *Witness my Hand this Third day of June 1679.* Titus Oates.

L. C. J. What harm is there in all this? I must needs say, I cannot comprehend what you would make of it.

Mr. Att. Gen. This Protection was given *Mr. Smith* by *Mr. Oates* three days before the Tryal; but after he had sworn him into the Plot in his Narrative.

L. C. J. I see not any Plot, for my part, that he swore him into, unless you mean Treason against the House of Commons: for that is the Accusation he made, that he spoke such words of the House of Commons. Pray read it again. (Which was done.)

L. C. J. Well, and what is all this?

Mr. Att. Gen. Is not this a swearing him into the Plot?

L. C. J. No, not that I see: it only gives an ill Character of him.

Mr. Att. Gen. But he is accused as a Confederate with the Priests and Jesuits.

Oates. Did I charge him, *Mr. Attorney*, with having any hand in the Plot against the Kings Life?

Mr. Att. Gen. I only offer this as an Evidence that there was tampering.

L. C. J. You call it a being in the Plot; I see no such thing.

Mr. Att. Gen. And then he comes and gives him an acquittal under his hand, and then produces him as a Witness.

L. C. J. There can be no great matter in this *Mr. Attorney*.

Mr. Att. Gen. Then my Lord, we'll call *Mr. Smith* himself, and he will tell you how *Oates* drew him in: Swear *Mr. Smith*, (which was done) pray acquaint my Lord and the Jury, how you came to swear at the former Tryal; by whom you were perswaded, and how you varied from the Truth.

L. C. J. That is very nauseous and fulsome *Mr. Attorney*, methinks in a Court of Justice.

Mr. Att. Gen. What did you swear in the former Tryal? and was that true you did swear then?

L. C. J. I tell you truly *Mr. Attorney*, it looks rank and fulsome: if he did forswear himself, why should he ever be a Witness again?

Mr. Att. Gen. 'Tis not the first time by twenty that such Evidences has been given.

L. C. J. I hate such Presidents in all times; let it be done never so often. Shall I believe a Villain one word he says, when he owns that he forswore himself?

Mr. Att. Gen. Pray my Lord give me leave; I must pursue my Masters Interest.

Mr. Sol. Gen. My Lord, it was ever Testimony allow'd to be given, to detect a Subornation.

L. C. J. I am sure 'tis not fit to be allow'd at any time: If he did forswear himself in a Court of Record, in my opinion he is not to be receiv'd as a Witness any more.

Mr. Sol. Gen. We do only make this use of him, to prove that *Oates* did suborn him.

L. C. J. Pray call some other Witnesses, if you have them, to contradict him; but do not offer to bring a man to swear that he did forswear himself before.

Mr. Sol. Gen. My Lord, we give Evidence here of a mans being produc'd by *Oates*, to swear he was here in *May 78.* and he did make such an Oath: now I hope, with Submission my Lord, it is Evidence to contradict that Oath, if we can prove that he has confessed he was forsworn, and mistaken in his Oath; such Evidence perhaps will be of little value, yet Evidence it is.

L. C. J. Make it what you will, *Mr. Solicitor*; I think it is of no value at all, nor to be admitted for the man to come and swear it himself: prove what you can by others.

Mr. Sol. Gen. Surely my Lord, this Confession of his to others is of less value, than when we bring the Man himself to confess his fault; that Man himself coming and owning the thing, that he was mistaken, with great sorrow for it, sure is a good Evidence.

L. C. J.

L.C. Justice. Argue the matter as long as you will, *Mr. Solicitor*, you will never convince me, But that he that has once forsworn himself, ought not to be a witness after that in any Case whatsoever. If any man tell me otherwise till Dooms-day, I cannot be convinc'd of it.

Mr. Soll. Gen. I go but to ask him this Question, Whether or no what he swore were true?

L.C. Justice. *Mr. Solicitor*, we are all of another Opinion, that it is not Evidence fit to be given.

Mr. Soll. Gen. My Lord, I must submit it to you.

L.C. Justice. I tell you, *Mr. Solicitor*, if you should call him to know what it was he swore, and it does appear by any Evidence, or by his own Confession, that it was false, you ought not to believe what he says even in that matter. And I think truly, for examples sake, it ought not by any means to be admitted.

Mr. Solicitor. My Lord, I must submit it to you, but then I humbly conceive, it will be in very many Cases impossible to detect a Perjury or Subornation, if the Party suborn'd cannot be admitted to be a witness.

L.C. Justice. What good will the admitting him to be a witness do? for either what he swore then, or what he swears now, is false; and if he once swears false, Can you say he is to be believed?

Mr. North. My Lord, If a man come and swear ———

L.C. Justice. Look ye, Sir, you have our Opinion; it has been always the Practice heretofore, That when the Court have delivered their Opinion, the Council should sit down, and not dispute it any further.

Mr. Att. Gen. Then we will go about the Business of *Clay*, and for that we will call *Lawrence Davenport*.

L.C. Justice. 'Tis certainly against the Law to admit a man that has once forsworn himself to be a witness again in any Cause.

Mr. Att. Gen. Swear *Lawrence Davenport*. (which was done) 'Pray' give my Lord and the Jury an account how *Clay* came to be a witness, and by whom he was wrought upon to be so.

Davenport. May it please you, my Lords and Gentlemen of the Jury, *Mr. Oates* came to the Prison, I being then a Prisoner at that time in the Gate-house at *Westminster* my self, and having no other Employment, I had the government and care of some of the Prisoners for a livelihood, being in custody; and at that time *Mr. Oates*, as I said, when old *Clay* was in Prison, did come there to visit this *Clay* at several times; and coming there to visit this *Clay*, up stairs he went to his Chamber, and desired to speak with him; and I did desire your Worship, *Mr. Oates*, that you would go in to him, and you did go into his Chamber, and there these words you did speak to him before the Trial of the five Jesuits, That if he did not swear what you put to him, he should be prosecuted as a Priest, which you did believe he would dye for.

L.C. Justice. What is this man's name?

Mr. Att. Gen. Lawrence Davenport.

L.C. Justice. Did you hear him say so?

Davenport. Yes, my Lord, upon my Oath I did hear him say so, and *Sir William Waller* was with him; and then he replied and said, with a Proviso, That you would give him his Gold and Silver that was taken from him, being then a Prisoner under My keeping in the Gate-house, and wanting his money; if you would do that, he said, he had been a Rogue before, and he could not say what he might do.

L.C. Justice. Now make it appear that this *Clay* was sworn at the Trial.

Davenport. My Lord, afterwards I was Keeper to him under the other Keeper, and he had a Keeper to wait on him to Newgate Sessions at the *Old Baily*; wherefore this Gentleman that is standing there, *Mr. Oates*, comes to us, says he, Do not you trouble your self about this Prisoner; let him alone with me, I'll see him at home again; and then the Jesuits there did take their Trials: how it was I cannot tell; for we could not come into the Court: afterwards they went to the Fountain Tavern by Newgate to Dinner, and *Mr. Oates* and he went to Dinner together; we were below in the house waiting there till it was Night, and still thinking that he should come down again; but away went he home, and left us in the lurch; but indeed he did come home to the Prison very honestly and civilly, because he was civilly guarded.

Mr. Att. Gen. Now, my Lord, we'll give you an account, That the next morning after this Discourse betwixt *Oates* and *Clay* at the Gate-house, this witness told it to another that was a Prisoner there then too.

Oates. My Lord, I would ask this man a Question, Whether he had the sole keeping of *Clay* without any other Keeper with him.

S

Davenport.

Davenport. There was no Keeper in the house, but my self, where he lay, which was in *Margaret's Lane*, not in the Prison, but in the House.

Oates. 'Pray' ask this Gentleman, why he did not come in and testify this Discourse, he speaks of, when *Clay* was a witness.

Davenport. I was not by when he was sworn.

Oates. Did he not know he was a witness ?

L. C. Justice. No, he says he did not go into the Court with you, he was not suffered to go in.

Davenport. My Lord, I am a poor Tradesman, and know nothing what belongs to the Law.

Mr. Att. Gen. Come, 'pray' swear this man, Mr. ——— (which was done.)

Mr. Sol. Gen. 'Pray' tell what *Davenport* told you, and when.

Mr. ——— He came and told me the next day in the Prison, where I was then, what *Mr. Oates*, and *Sir William Waller* had been tampering with *Clay* about, to make him swear for *Mr. Oates*.

L. C. Justice. What were the words he told you they said to him ?

Mr. ——— It was, That he must swear, That *Mr. Oates* dined at *Mr. Howard's* house such a day of the month, and *Mr. Clay* did say he knew nothing of the matter, but then *Sir William Waller* and *Mr. Oates* did reply to him again, here's your Choice; if you will not swear this, we will try you for a Priest, and hang you, and so *Clay* agreed; if he might have his money restored that was taken from him, he had been a Rogue before, and did not know what he might do.

Oates. Is this Evidence, my Lord ?

L. C. Justice. Yes doubtless, very good Evidence.

Oates. 'Tis only upon hearsay that he speaks.

L. C. Justice. But that establishes the other man's Testimony, this being told the very next morning; for he would not conceal it, it seems.

Mr. Att. Gen. Now that *Clay* was sworn at the Trial, you admit, *Mr. Oates*.

Oates. Yes, I do, he was so.

Mr. Att. Gen. Then I think here's a plain proof of a Subornation.

L. C. Justice. You must observe how they apply this Evidence: They say, You are an ill man, not only as to swearing false your self, but as to suborning others to swear more than they knew; and particularly as to this *Clay*, that you and *Sir William Waller* did threaten him, you would hang him up for a Priest, if he would not swear as you would have him; and by your Threatnings he was prevailed with to swear.

Oates. Is *Mr. Clay* in Court, my Lord ?

L. C. Justice. Nay, I cannot tell where he is.

Mr. Att. Gen. He was your witness, *Mr. Oates*; we expected you would have brought him.

Oates. I cannot tell where to find him, my Lord, now truly.

Mr. Att. Gen. Call *Mr. Howard*. *Crier*. Here he is, Sir, he is sworn.

L. C. Justice. *Mr. Attorney*, you have not proved what he swore.

Mr. Att. Gen. We are now about it, my Lord. *Mr. Howard*, 'pray' were you at the Trial of the five Jesuits, or at *Langhorn's*, when *Clay* was sworn as a witness for *Dr. Oates* ?

Mr. Howard. Yes, I was at *Langhorn's* Trial, my Lord.

Mr. Att. Gen. What was the Effect of his Testimony there ?

Mr. Howard. He did swear, That he was with me and *Mr. Oates* at dinner at my House, in May, in the year 77.

Mr. Att. Gen. 77 did he say, or 78 ?

Mr. Howard. Stay, I will look upon my Notes I took at that time.

L. C. Justice. Ay, do so to refresh your memory, *Mr. Howard*.

Mr. Howard. It was May 78, my Lord.

Mr. Sol. Gen. 'Pray' thus, Sir, Was he then at your house with *Oates* ?

Mr. Howard. No, he was not there in May; *Mr. Clay* was with me and *Mr. Oates* both together in July 78, after the fourth day of July.

Mr. Att. Gen. That is after the time he came to London from St. Omer's.

L. C. Justice. You say very well; have you any more witnesses ?

Mr. Sol. Gen. My Lord, we must desire that the 28th. Article of *Mr. Oates's* Narrative may be read.

O. Crown. (Reads.) That in order to this Command on April 24. 78. *Father Warren*, Rector of Leidge, *Sir Thomas Preston*, Baronet, *Father Marsh*, Rector of Gaunt, and *Father Williams*, Rector of Watton, and Master of the Novices, *Sir John Warner*, Baronet, *Richard Ashby*,

Athby, Rector of the English Seminary at St. Omers, being sick of the Gout, could not go. But out of the said Seminary, went Sir Robert Bret, Baronet, Father Pool, Edward Nevile. There were in all with the Deponent nine or ten, who met in London in Consult with Thomas Whitebread, Father Harcourt Senior, and Father Harcourt Junior, John Fenwick, Basil Langworth, William Morgan, John Keimes, Father Lovel, Father Ireland, Father Blundel, Richard Strange, Father Mico, Father Grey, and others to the Number of fifty Jesuits met at the White-Horse-Tavern in the Strand, where they plotted their Designs for the Society, and ordered Father John Carey, who was also there, to go Procurator for Rome; at which Consult thus held in the Month of May, the Deponent was present to attend the Consultors and deliver their Concernes from Company to Company; and then a little after they left the White-Horse-Tavern and divided themselves into several Clubs, and Companies: some met at Mr. Saunders House in Wild-Street; others at Mr. Fenwick's at Aireses his House in Drury Lane; others at Mr. Ireland's in Russel-Street near Covent-Garden, and in other places. All which, though in several Companies, five or six in a Company, did contrive the death of the King; and in order to which there were Papers sent from Company to Company, which the Deponent did carry, containing their opinions of the timing their Business, and the manner how it was to be done, and within three or four days after the Deponent went to St. Omers with the Fathers that came from the other side of the water.

Mr. Att. Gen. My Lord, we produce this to overthrow their Witnesses, That speak of his being here a week in May. Now Mr. Oates in this Narrative, says, That the Consult ended the twenty fourth of April, and that three or four days after, he returned back to St. Omers.

L. C. Justice. 'Pray' read that over again, where the names are; for the Witnesses for the King swear, That Mr. Williams came over from St. Omers, but he here says he did not, I think.

It was read again.

L. C. Justice. I thought it had been otherwise; 'Tis darkly penn'd.

Mr. Att. Gen. My Lord, I myself heard him declare in many Trials here, and at the Old Bailey, That all was finished in that day, and he went away in a few days.

Oates. Mr. Attorney, you are mistaken: For if you please, my Lord, the Consult was not dissolved in six or eight days, though they were not sitting or acting every day.

Mr. Att. Gen. 'Tis not a difference of six or eight days that is contended for, but it is, Either Mr Oates or his Witnesses do not swear true. If it were as Mr. Oates says, That six or eight days were allow'd after the twenty fourth of April, then it must be the fifth or sixth of May, that he went to St. Omers; and then his Witnesses, that say he was here the Latter end of May, can not swear true. And our Witnesses, say he was all April and May, until the twenty third of June at St. Omers.

Oates. My Lord, Mr. Attorney does not apprehend the Evidence aright.

L. C. Justice. Well, you may make your Remarks by and by, and set him right if you can.

Mr. Att. Gen. We have done our Evidence, my Lord.

L. C. Justice. Have you any more Witnesses, Mr. Oates?

Oates. No, my Lord, I have not.

L. C. Justice. Then you must conclude, and say what you have to say to the Jury.

Oates. My Lord, I have one thing more and that is, A Copy of the Record out of the House of Lords. It is in the Journal the twenty fifth of March, seventy nine.

Mr. Walker. My Lord, I have not the Book here, it was not spoke for.

Oates. But do you know this hand? Shewing him a Copy.

Mr. Walker. Yes, and I Believe it is a true Copy.

L. C. Justice. Read it.

C. Crown. (Reads.) Tuesday the 25 of March 1679.

Oates. It is the last Clause in the Journal of that day.

C. Crown. (Reads.) Resolved, Nemine Contradicente, by the Lords Spiritual and Temporal and Commons in Parliament assembled, That they do declare that they are fully satisfied by the Proofs they have heard, That there now is, and for divers years last past hath been a Horrid and Treasonable Plot and Conspiracy, contrived and carried on by those of the Popish Religion, for the Murthering of his Majesty's Sacred Person, and for subverting the Protestant Religion, and the Ancient and Established Government of this Kingdom.

Oates. There is an Order to have that Vote printed and inserted before the Form of Prayer

Prayer for the Fast. 'Pray' Sir, read the next Page.

Cl. Crown. (*Reads.*) Die Lunæ 25. Oct. 1680.

Upon Report from the Lords Committees for examining matters relating to the discovery of the late Horrid Plot and Conspiracy, That Captain Thomas Bickley hath lately vilified Dr. Titus Oates at a publick meeting at Chichester to the prejudice of his Majestie's Evidence for the further discovery of the said Plot: It is thereupon ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Said Thomas Bickley be, and is hereby required to appear before their Lordships, in the Lord Privy Seals Lodgings, near the house of Peers, on Wednesday the third day of November next, at eight of the Clock in the forenoon. And it is further ordered that Alderman Exon and Alderman William Bury of Chichester aforesaid, who were then present at the said meeting, do likewise attend their Lordships at the time aforesaid, to give Evidence of what they know concerning this Matter.

L. C. Justice. What of all this? we know hereupon *Bickley* was turned out of Commission, and now *Bickley* is in again. But it seems as you had credit with some then, so you had not with others. Well, have you done now all?

Mr. Att. Gen. Yes, my Lord.

Mr. Sol. Gen. If *Mr. Oates* will Summ up his Evidence, then I will do the same for the King, when he has done.

L. C. Justice. Well, what say you, *Mr. Oates*?

Oates. Now, my Lord, here is an Indictment preferr'd against me for Perjury and the Evidence they have given for the King, is this, 1. They have call'd *Mr. Foster*, and he tells you that I was produced at the Sessions-house in the *Old Baily*, where he was summon'd as a Jury man, upon the Trial of *Ireland*; and he says, That when I was produc'd at the Sessions in the *Old Baily* as a Witness, and sworn, (if I do remember *Mr. Foster* aright in what he says) he did hear me swear, That there was a Treasonable Consult of Jesuits upon the twenty fourth of April 78. at the White-Horse-Tavern in the *Strand*; and he does further say, That I said those Jesuits afterwards came to a Resolution to kill the King; and that they separated themselves into lesser Clubs; the Resolution being drawn up by one *Mico*; and that I carryed it from Chamber to Chamber to be signed, and did see it signed. My Lord, I did ask *Mr. Foster*, Whether I in my Evidence called it a Consult, or a Traiterous Consult. Now, my Lord, 'tis true I did call it a Traiterous Consult; it is as true that I did swear there was such a Consult; and it is as true that I did swear this Consult did divide it self into lesser Companies; it is as true that I did say I did carry that Resolution about from Chamber to Chamber, and saw them sign that Resolution for murdering the King, I do not mean of this King, but of the late King. My Lord, the Evidence I think I nor no honest man shall need to be ashamed of; I am not ashamed to own that I repeated this Evidence several times, nor that I gave that Evidence upon Oath; for it is Truth, my Lord, and nothing but Truth, and I resolve by the Grace of God to stand by it and confirm it with my Blood, if there be occasion. My Lord, to Conviçt me of Perjury, they have brought a parcel of *St. Omers* Witnesses, and these do swear that which they would have sworn six years ago; but then the Court thought them not fit to be sworn, not only because the Law will not allow them, but because of their Religion, that can dispense with false Oaths, if it were for a good Cause, and that was the Remark my Lord *C. Justice Scroggs* then made of it. I shall not insist much upon what they have sworn, for that I suppose your Lordship and the Jury do very well Remember: But I have five things to Object to their Evidence; and I hope the Jury will take notice of my Objections, and make their Remarks upon them; for since you have heard the Evidence that is brought against me, it will be necessary for your Lordship to weigh the nature of these Witnesses and the Value, that the several Juries of *London* and *Middlesex* had for them. 'Tis true there are several brought here now, that never were Witnesses before; there are indeed other men, but of the same Religion and the same Interest, and therefore their Testimony must be of the same Value; I think your Lordship will allow me that: Therefore I Begin with their Religion, and that I take notice to be a great Objection to their Evidence, as I am advis'd by those that are Learned in the Law. And I must appeal to the Court, whether a Papist in Case of Religion may be believed and received as a good Witness?

L. C. Justice. We must nor hear any of these Idle Expressions.

Mr. Just. Withens. Do you think you are come here to preach, *Mr. Oates*?

L. C. Justice. I'll tell you, a Papist, except you'll prove any Legal Objection against him, is as good a Witness in a Court of Record as any other Person whatsoever.

Oates. But if your Lordships, I'll tell you my Lord *Cook's* practice was not to admit them as good Witnesses.

L. C.

L. C. Justice. Do not tell me of my Lord Cook's practice; the Law is otherwise; keep to the Business that you have here in hand; the Question before us, Whether you were forsworn in Ireland's Trial or not? Answer that if you can; but you must not run out into Clamors and idle Extravagances.

Oates. My Lord, I demand it as my Right to be heard what I have to except against the witnesses.

L. C. Justice. I tell you, you shall be heard when you speak properly: But are you to determine what is Right, or what is Wrong?

Oates. I am to determine my own Right now in this point, and I insist upon it, and demand it.

L. C. Justice. It may be presently you'll tell us we have no right to judge of it.

Oates. Yes, my Lord, you have; but I hope I have right to urge it.

L. C. Justice. Urge what you will that is to the purpose, but then you must keep to the matter in hand, and not make such idle Excursions as these are.

Oates. I will keep to the matter, my Lord, if you will hear me.

L. C. Justice. So you shall, we'll make you keep to the matter, or we will not hear you at all: Do not think your Impudence shall storm us out of our Senses.

Oates. My Lord, I do insist upon it, that these men's Religion is an exception to their Testimony, and a Papist is not a good witness in a Cause of Religion; and I desire I may have leave to argue that as a Point of Law in my own defence.

L. C. Justice. No, Sir, it is no point of Law at all.

Oates. Then I appeal to all the hearers whether I have Justice done me.

L. C. Justice. What's that, why you Impudent Fellow, do you know where you are? you are in a Court of Justice, and must appeal to none but the Court and the Jury.

Oates. I do appeal to the hearers.

L. C. Justice. Take him away there; if you will not behave your self as you ought, I can assure you the Court will do what they ought to do, and stop your mouth.

Oates. What you please, my Lord, I must make my own defence as well as I can.

L. C. Justice. You are here in Judgment before us, and are to appeal to us; we'll suffer none of your Common-wealth appeals to your *Mobile*; keep within the Bounds of Decency, and say what you can for your self.

Oates. My Lord, this I move to the Court as one of my Objections to this Evidence given against me, That their Religion makes them no good witnesses; especially in this Cause.

L. C. Justice. I tell you that is nothing to the purpose, what their Religion is.

Mr. Just. Holloway. Mr. Oates, we come not here to dispute Points of Religion, we come to try a bare matter of Fact, whether you are perjured or no.

L. C. Justice. I tell you a Papist is a good witness without a Legal Exception.

Mr. Just. Withens. 'Pray', Mr. Oates, is not a Papist as good a witness as a Dissenter?

Oates. My Lord Cook would not admit a Papist to be a good witness in any Cause.

Mr. Just. Withens. How, not in a Cause of *Mæum* and *Tuum*?

Oates. No, my Lord, not in any Cause between Party and Party.

L. C. Justice. Where is that Opinion?

Oates. I'll cite you the Case, if you please, my Lord.

L. C. Justice. 'Pray' let us hear it.

Oates. It is in *Bulstrode's Reports*, the Second Part, 155. A Popish Recusant is not to be admitted a witness between Party and Party.

Mr. Just. Withens. May a Presbyterian be a good witness, Mr. Oates?

Mr. Just. Holloway. Or would Mr. Colledge have been a good Witness, Mr. Oates?

Oates. I tell you this was my Lord Cook's practice.

L. C. Justice. You have our Opinion, and be satisfied with it; That Book says it was my Lord Cook's practice, and we think if that was his practice, his practice was against Law.

Oates. Then another thing I object to their Testimony, is their Education.

L. C. Justice. That's no Objection at all neither.

Oates. My Lord, they are bred up in a Seminary against Law, and for which their Friends are to be punished.

L. C. Justice. So is every man living that's bred a Dissenter, bred up against Law.

Oates. My Lord, I have not offered any Dissenter as Evidence for me.

L. C. Justice. No, they are all no doubt of it very good People. Good-wife Mayo, and her Companions excellent Protestants without all question.

Oates. My Lord, I humbly offer a Statute to your Lordship: And that is Law sure.

T

L. C.

L. C. Justice. Yes, a Statute is Law. What Statute is it?
Oates. It is 27 of *Eliz. Cap. 2.* The Law says there —

L. C. Justice. Come we will see what the Law says. Read the Statute he speaks of.

Cl. Crown. It is Intituled an Act against Jesuits, Priests, and other such like disobedient Persons.

Oates. My Lord, I desire, That the Preamble of the Act may be read.

Cl. Crown. Whereas divers Persons called and professed Jesuits, Seminary Priests, and other Priests, which have been, and from time to time are made in the Parts beyond the Seas, by or according to the Order and Rites of the Romish Church, have of late come, and have been sent, and daily do come, and are sent into this Realm of England, and others the Queen's Majesty's Dominions.

L. C. Justice. This is nothing to this Business before us at all.

Mr. Justice Withers. Does this Statute say they are no good witnesses?

Oates. They own themselves to be Educared at St. Omers, and that is against this Law expressly.

L. C. Justice. What then, Do they own themselves to be in Orders, Jesuits and Priests, Then you might say somewhat to them upon this Law; but do not spend our time in such Trifles.

Oates. I do not spend your time in Trifles, my Lord. It is my Defence.

L. C. Justice. Mr. Attorney, do you go on; for we will not sit here to spend our time for nothing.

Oates. Pray, my Lord, let me but shew this, I only propose one Statute more to your Lordship's Consideration.

L. C. Justice. You may propose to read the whole Statute Book.

Oates. Pray, my Lord, hear me out.

L. C. Justice. Speak then to the Business in hand.

Oates. It is the Statute made in 3d. King Charles the First, Chap. 2.

L. C. Justice. It is nothing to the purpose.

Oates. I am advised 'tis very material for me!

L. C. Justice. I tell you it is not; and we'll not let your Importunity prevail upon us to spend our time for nothing: There has been a great deal of time spent to no purpose already.

Oates. Then if you will over-rule it, my Lord —

L. C. Justice. We do over-rule it: For it signifies nothing to this purpose.

Oates. Pray, my Lord, be pleased to give me leave to offer their Judgments in Cases of Conscience; whereby they own they have Dispensations to swear Lies for the promoting of the Cause.

L. C. Justice. That is no Evidence neither.

Oates. This is very hard in such a Case as this.

L. C. Justice. No, It is not hard, that what is no Evidence in Law, should not be suffered to be given in Evidence.

Oates. It is Evidence against the poor Dissenters, my Lord.

L. C. Justice. Indeed Sir, It is not Evidence against any one body in the World; if you will take my word for it, if you will not, I cannot tell how to help it.

Oates. Then I offer you one thing more, my Lord, and that is what was said and done in the Case of the Earl of Shaftsbury, when he was charged with High Treason, and committed to the Tower of London, at several Sessions in the Old Bailey and at Hicks's Hall; they did move that they might have liberty to bring in an Indictment of Perjury against the witnesses which did accuse him of Treason, but now the Court there over-ruled those Motions, and would not suffer my Lord of Shaftsbury's Friends to bring Indictments of Perjury against him, because they would not have the King's Evidence Indicted of Perjury, nor the Popish Plot called in question; This is matter of Fact in the Old Bailey.

L. C. Justice. And this is all idle too.

Oates. Pray, my Lord, will you hear me.

L. C. Justice. But pray Sir, will you hear me too. I tell you this is nothing to the purpose neither.

Oates. My Lord, I desire to speak but these few words then, as to my own Witnesses I have produced. And the first is Cicely Mayo; and, my Lord, though it be your Lordships pleasure, not to have that good opinion of her, as I think the poor woman does deserve, yet I hope her Evidence, will have it's due Weight and Consideration with your Lordship, and

and the Jury; she says, she saw me in Town in the Month of *May*: Now indeed she could not be positive, what *May* it was, but she said it was the *May* before the Popish Plot broke out, that is before the Rumour of that Plot was spread abroad, and she believes the Plot broke out in 78. But this she says positively, she saw me in the Month of *May* here; my Lord, she comes to give this Evidence freely and voluntarily; a man that is a Knave is a Knave for something, either out of Malice, or for Gain or Interest; but she has no Reward given her, nor can hope for any, but in Love to Justice, without any by-end or particular Interest; she came here to testify the truth, about her seeing me in *London* in *May* 78. The next Witness is Mr. *Butler*, he was then Sir *Richard Barker's* Coachman. He lived some years with him, as his Servant; but he is now set up for himself, and he says, that when he was about his Masters Business in the Coach-yard, and sitting the Coach for to fetch his Master home from *Purney*, I came in, and this was in the beginning of *May*, in a disguise; and he says he saw me a second time in another disguise. Then comes a third Witness that I called, and that is *Page*, and he came into the Hall, where the Patients use to wait for his Master, and there he met me, and spoke with me. Then I called *Walker*, the Minister, but it happens his Memory is not so good now, as it was heretofore; and indeed I cannot tell how to blame him, for 'tis so long since, that it is impossible for any body to remember the Circumstances of times and places, that in some short time after the Fact, might have been remembered with far greater Ease. I expected Sir *Richard Barker* might have been here, being Subpoened to justify the Evidence of these people; and I did expect that Mr. *Smith* would have been examined; but I perceived the Court tender of that point, as knowing it would then easily have been seen upon which side it was, that he was suborned that is, to make such a Confession as Mr. *Attorney* would have hinted at.

L. C. Justice. Have you a mind to examine him, Mr. *Oates*; with all my heart. If you consent to it, he shall be examined.

Mr. *Just. Withens*. If you will, he shall be examined, it was for your sake he was not.

Mr. *Just. Holloway*. It was to do you Right, that he was refused to be sworn before.

Oates. Good Mr. *Justice Holloway*, you are very sharp upon me.

Mr. *Just. Holloway*. No, I am not sharp upon you; I think the Court did you a great deal of Justice, you have no reason to complain.

Oates. But, my Lord, this I say, The Evidence upon which I am now indicted of Perjury is the same, which was delivered six years ago at the *Old Baily*, at *Whitebread's* Trial first, and then at *Langhorn's* Trial, where were sixteen Witnesses then produced and heard against me: But then, my Lord, what Credit did they receive at *Whitebread* and *Langhorn's* Trials? Now if this Evidence that I gave was then to be believed, tho opposed by so many Witnesses, what new objection does rise against it, which was not then hinted and received an answer? For as to all the Records that are brought out of the House of Lords, they have not amounted to a Charge sufficient to diminish any mans Evidence in the world; for as to the Narrative that is entred there in the Journal; I think I and any man else, that were concerned as I was, may very well defend the truth of it; and I do avow the truth of the Popish Plot, and will stand by it as long as I have a day to live, and I do not question but the Jury upon Consideration of those Protestant Witnesses, that I have here brought against these Popish Seminaries, will, acquit me of this Perjury. I leave it to your Lordship and the Jury to judge, and I hope those passages of heat, that have fallen from me in Court shall not make me fare at all the worse in your Judgement. I have called some Noble Lords to testify for me; but I find, either the distance of time has wrought upon their memories, or the difference of the season has chang'd their opinion, so that now they disbelieve that, which they did believe before, and perhaps for as little Reason as—

L. C. Justice. As they believed you at first.

Oates. Yes truly, my Lord, for as little reason as they believed me at first; For I cannot expect that a man, who believes without a principal should not recant that belief without a reason.

L. C. Justice. What do you mean by that?

Oates. I name no body.

L. C. Justice. But the Nobility, that are here, and that have been Witnesses in this Cause, are all persons of that Honour, that the Court is bound in Justice to take notice of, and vindicate them from your scandalous Reflections; but only I think that a Slander from your Mouth is very little Scandal.

Oates. Nor from some bodies else neither.

L. C. Justice. But, Sir, you must be taught better manners.

Oates. I find, my Lord, I am not to be heard in this Cause with Patience.

L. C.

L. C. Justice. I think you do not deserve to be heard at all.

Oates. I cannot tell how to help it, if you will not hear me.

L. C. Justice. Can't you say, what you have to say for your self without Reflections and running out into such Extravagancies.

Oates. My Lord, you will suffer me to offer nothing that is Material for my Defence.

Mr. Just. Walcot. Do you think it decent for this Court to suffer persons of Honour, that by your own desire were sworn to give Testimony in this Cause, should lie under the Reproach of your Tongue?

Oates. Good Mr. Justice *Walcot*, was there ever any man dealt with as I am, or had such Evidence offered to be given against him? Here they offer to blacken me with the Imputation of that foul, infamous Crime of Perjury; and who are the Witnesses to prove it, but Youths out of a Sentinary; Sir *George Wakeman*, and my Lord *Castlemain*, known Papists, and perhaps Popish Reculants, Convict too; as for my Lord *Castlemain*, the Record of his acquittal is brought as a Charge against me, to prove that I was forsworn; and not believed at his Tryal; when all the World knows, it was because there was but one Witness against him that he came off; and that was the Reason that was urged by my Lord *C. Justice Scroggs* at that very time, who would not admit *Dangerfield* to be a Witness, and reflected not at all upon my Testimony, but directed the Jury, for want of another Witness, to acquit him: Then my Lord, here is *Wakeman* brought and his acquittal too; he swears all I said against him was false; whereas, had it not been for two dishonest persons, one I have now in my sight; I shall not name any names; we could at that time have proved five thousand pound of the money paid to him, and that he gave a Receipt for it; but my Lord, this I am sure of, if I had been brought in as a Witness in the Case of those that suffered lately for the Presbyterian Phanatick Plot (as they call it) I had never been call'd in question, if my Evidence had been false; but it is apparent the Papists have now a Turn to serve, and these Papists are brought in, the *St. Omers* Youths, to bear this Testimony, on purpose to falsify my Evidence, and to bring of the Popish Lords, that now stand impeach'd of high Treason for the Popish Conspiracy; but, my Lord, I hope as the Court would never admit Indictments of Perjury against the Witnesses in that Case of my Lord *Shaftsbury*, so you will not admit it here; and if my *L. C. Justice Jones* were in the Right, who did the same thing in his Circuit, I hope I shall have that Right done me here. My Lord, it is not me they indict, but the whole Protestant Interest is aim'd at in this Prosecution; and hereby they arraign the whole proceedings of so many Parliaments, all the Courts of Justice, and the Verdicts of those Juries, that convicted the Traytors that were executed; for my own part I care not what becomes of me, the Truth will one time or another appear.

L. C. Justice. I hope in God it will.

Oates. I do not question it, my Lord.

L. C. Justice. And I hope we are finding it out to day.

Oates. But my Lord since I have not the liberty to argue those things that were most material for my defence against this Indictment, I appeal to the Great God of Heaven and Earth, the Judge of all; and once more in his presence, and before all this Auditory, I avow my Evidence of the Popish Plot all and every part of it, to be nothing but true and will expect from the Almighty God, the Vindication of my Integrity and Innocence.

Mr. Sol. Gen. May it please your Lordship, and you Gentlemen of the Jury —

Oates. My Lord, I have one thing to move to your Lordship; I desire I may be brought up to morrow by Rule of Court to hear my Trial, that is then to be.

L. C. Justice. Ay, let him be brought up by rule to his Trial.

Oates. My Lord, I lie under very great affliction with the Stone and the Gout, and besides that, I have lain in Irons these twenty one weeks; I beseech your Lordship, that this Cruelty may not be inflicted upon me. My Lord, I am but hitherto a Debtor to the King upon a Civil Account; And if I should be convicted upon these Indictments, I could then be but in Execution for a Trespass; And I humbly conceive and hope the Court will show me that Favour as to acquaint my keeper, that I ought not to be so handled.

L. C. Justice. Look you, for that I tell you again, what I have often said, I expect from the Marshal, that he keep you as he ought to keep you; I have heard that there have been abundance of Attempts made for your escape, and therefore the Marshal must have the greater care of you.

Oates. Let any of those Complaints be made out, my Lord, and I'll be contented to be used how they will.

L. C. Justice. I repeat it again, let the Marshal have a care to keep you *in salva et arcta Custodia*, according to Law.

Mr.

Mr. Just. Holloway. If the Marshal does otherwise than his Duty, inform against him, and take the Remedy the Law allows.

Marshal. But the last night, my Lord, Ropes were brought into his Chamber, on purpose to give him means to escape, and here are the bundle of Ropes.

Oates. I know nothing at all of them, I assure you, my Lord.

L. C. Justice. Well, you have our Rule. Go on Mr. Solicitor.

Mr. Soll. General. May it please your Lordship, and you Gentlemen of the Jury, I am of Council for the King in this Cause; which is upon an Indictment of Perjury against *Titus Oates*, the Defendant; and the Perjury charg'd upon the Defendant, is laid to be in his Oath at the Trial of *Ireland*, at the *Old Bailey*; and it is thus, That he in his Evidence at that Trial, did swear, that there was a Treasonable Consult of the Jesuits, held at the *White-Horse-Tavern* in the *Strand*, the twenty fourth of *April*, 78. and that he was there present. —

Oates. Ay, I was there.

L. C. Justice. You must be quiet, and let the Council go on without interruption.

Mr. Soll. Gen. And that they separated themselves into lesser Companies and Clubs, and that the Jesuits came to a resolution to murder the late King, and that he, the Defendant, *Oates*, carried this resolution from Chamber to Chamber, and saw it signed by them; now all this is laid in his Indictment to be false; for that in truth, he was not present at any such Consult of the Jesuits at the *White-Horse-Tavern* in the *Strand* upon the twenty fourth of *April*, 78. nor did carry any such resolution from Chamber to Chamber to be sign'd as he had sworn in the *Old Bailey* at that Trial, and so has committed Wilful and Corrupt Perjury.

Gentlemen, the Evidence, that has been given to prove, that he was not present at any such Consult, nor did carry any such Resolution, has been by proving where he was at that very time, that he swears this Consult was held, that is, that he was really at *St. Omers*, in parts beyond the Seas, and not in *London*; and to make out this, we have produced no less than twenty Witnesses, that swear positively, and give you very many Circumstances to induce you to believe, that what they have taken upon them to remember is really and effectually true.

First, you have *Mr. Hilsey*, and he swears that he himself came away from *St. Omers*, the twenty fourth of *April*, New Stile, which is the fourteenth of *April*, Old Stile, which was a Sunday; that night he came to *Calis*, the next day he arriv'd at *Dover*, and coming up to Town towards *London*, the next day he met with *Mr. Bournaby*, who was then going to *St. Omers*. And he further swears, that at that very time, when he came from *St. Omers*, he left *Oates*, the Defendant, upon the place; this I say was the fourteenth of *April*: And for a Confirmation of this to be true, he left him there at that time. I would mention what two other Witnesses do testify, and therein do verify what he swears; for they tell you, That at this very time when he came over, or within a day or two, but long before such time as there was any occasion to bring this to be a question, he told one of them, in a discourse that was between them, that he had left upon the place from whence he came, which was the College at *St. Omers*, an *English* Minister, whose name was *Sampson Lucy*. —

Oates, My Lord, I beg I may have leave to withdraw, for I am very weak, and ill.

L. C. Justice. Then make Room for him to go away, if he will.

Mr. Soll. Gen. And they give you an account, that the Defendant, *Oates*, went by that name there, and it is not denyed by him that he did so: And this is a Circumstance greatly verifying *Mr. Hilsey's* Evidence. Then comes *Mr. Bournaby*, who swears, That he met *Mr. Hilsey* when he came from *St. Omers*, about the sixteenth of *April*, O. S. and the twenty first of *April*, O. S. he came to *St. Omers*; and that when he came there he found *Oates* there upon the place; this was the first of *May*, New Stile; and he gives you this circumstance to strengthen his Testimony, That he very well remembers, that upon the second of *May*, N. S. the day after he came to *St. Omers*, *Oates* intruded into his Company and got himself acquainted with him; he says further, that upon the third of *May*, N. S. he particularly remembers *Oates* was in his Company there, and they went into the Garden and walkt together; he also says, he saw him the fifth of *May*, N. S. which is the twenty fifth of *April*, O. S. the day after this day assigned for the Consult, with this Circumstance, That he remembers to have seen him in the Rhetorick School, and so successively afterwards he gives you a particular account down to *Midsummer*; after that *Oates* continued in the College at *St. Omers*, and then went away.

Then the next Witness we produce is *Mr. Pool*, and he gives you an Account, That upon

the twenty fifth of *April*, 1678. N. S. which was the fifteenth of *April*, Our *Stile*, he came over here, and he left behind him at *St. Omers*, the Defendant *Oates*; for he particularly remembers, that he saw him there when he came away; so *Hilsley* left him the fourteenth of *April*; *Mr. Pool* came away the fifteenth of *April*, which is our twenty fifth, and left him at *St. Omers*, and does not remember, That he used to be absent out of the College; and *Mr. Bournaby* finds him there the twenty first of *April*; so that particularly at the times, the other two came away, and *Bournaby* came thither, there he was, and there they saw him.

The next Witness is *Mr. Thornton*, and he gives you an account when *Oates* came thither first, and how long he stayed there; he says he came about *Christmas*, 77. and there he stay'd till *Midsummer-Eve*, 78; and he tells you some particular days he saw him on; he says he saw him there on the first of *May*, N. S. and he saw him the second of *May*, N. S. In Company with *Mr. Bournaby*, the next day after his Arrival there, wondring at their suddain acquaintance. And he adds a particular Circumstance, why he remembers it was the second of *May*; because that day the Scholars at *St. Omers*, acted a Play, at which *Oates* had a Skuffle for a Seat; and he says he does likewise remember him to have been there, when *Mr. Pool* came away, which was the twenty fifth of *April*, N. S.

Then *Mr. Conway*, that was our next Witness, gives you an account likewise of *Oates's* coming to *St. Omers*, about *December*, 77. and how long he stayed there, viz till the latter end of *June*, 78. And he does not remember, that he lay out of the College above one Night, and that was in *January*. And he remembers particularly, that he saw him with *Mr. Bournaby* such a day in *May*.

Then we brought another Witness, and that was *Mr. Haggerstone*, and he tells you, he had good reason to remember *Mr. Oates*, for he was in the same Classis with him; and this Gentleman gives an account particularly, that he remembers him to be there the next day after *Mr. Bournaby* came, and agrees in Testimony with all the rest, that from *Christmas* till *Midsummer*, he was not absent out of the College, but one night.

We have another Witness, *Mr. Beeston*, and he remembers, that *Oates* was playing at Nine-pins the first of *May*; he remembers the second of *May* to have seen him with *Mr. Bournaby* after the play was over; and that agrees with the other Witnesses about his being in *Bournaby's* Company the Second of *May*; and he remembers likewise, that he himself was chosen Reader to the Sodality; but upon *Mr. Oates's* Importunity, he supplied the place in *Mr. Beeston's* Room, onely with this Reserve and Condition, That *Mr. Beeston* was to be Reader at any time, if *Oates* failed; and he gives you this particular account, that *Oates* did read, as he believes, every Sunday and Holiday, from the latter end of *March*, when he was chosen Reader, to within a Week of his going away; for that he did never read himself as he should have done, if *Oates* had been absent or failed to read.

We have another Witness, and that is *Mr. Smirb*, and he swears his being there from *Christmas*, 77. to *Midsummer*, 78. and he remembers particularly as to *April* and *May*, because the twenty first of *April*, he himself fell sick in the College, and went into the Infirmary, and remained there till the seventh of *May*; and he does remember that *Oates* visited him very oft in that time in the Infirmary, and told him *Mr. Hilsley* was gone away, and *Mr. Pool* was gone away, and two or three other particulars, which happened in the College at that time; so that there is another Evidence, that is very strong with Circumstances to confirm the Testimony of the rest; and he gives you a very satisfactory account of it, by showing the reasons how he comes to remember these things.

Mr. Price, who was our next Witness, has given you a Relation all to the same purpose of *Oates's* coming there at *Christmas*, and of his going away at *Midsummer*. And he remembers particularly, that *Oates* was at *St. Omers*, when the Jesuits went to the Consult at *London*; for that there was a Consult, and at that time, is acknowledged to be true; but not such as he says, nor was he there; but he says some of the Fathers did call there in the way to *England*. And at that very time, and after, he saw him there. And *Mr. Doddington* gives you the same account.

Then comes *Mr. Gerard*, and he tells you a Story to the same purpose; how long *Oates* was there, and when he came. And that the Second of *May* he remembers *Oates* was at the Play; and he remembers the twenty sixth of *May*; *Oates* was there, which was the sixteenth of *May*, O. S. And he is sure *Oates* was there at that time, for this reason, that being the day whereon he himself was confirmed, *St. Augustine's* day; and *Oates* was confirmed with him; and therefore he has reason to Remember *Oates* was at *St. Omers*.

My Lord Gerrard of Bromley was our next witness, and he gives you an account to the same purpose; and to the General Evidence, in which he confirms the others, he adds this particular, That *Oates* used to read with a singular Canting Toke; so that he must needs remember him, and was so remarkable for other things that he could not be absent without being missed, which he never was.

Then comes Mr. *Morgan*, who was there at that time, a Scholar; but he's now a Minister of the Church of *England*; and therefore not liable to Mr. *Oates's* great Exception of Religion; he confirms what all the witnesses said of the time of *Oates's* coming, and of the time of his going away: And particularly he swears, That when Mr. *Hilsley* went away, he was there; when Mr. *Pool* went away, he was there; and when Mr. *Bournaby* came thither, he was there. And this is not all; for there is somewhat more remarkable in his Testimony; for he tells you particularly he does remember, That upon the twenty fourth of *April*, O. S. the Day, Gentlemen, when *Oates* says he was at the Consult in *London*, *Oates* was then at *St. Omers*. And the occasion of his remembering this, he gives you an account of; for, he tells you, upon reading the Trial of *Ireland*, where *Oates* swears, That he was here at the Consult the twenty fourth of *April*, 1678, O. S. all the College reflected upon it, and wondred at the Impudence of the man, that he should dare to swear such a thing, when all the College remembred him to be there all the while: And upon recollection of Circumstances he himself did particularly recollect his own playing at Ball that very day, and having tost his Ball over the wall, he borrowed *Oates's* Key to go into the Garden to fetch it: And this was thought of whilst things were fresh, and every man Remembred this, or that, or the other thing to be done at such a particular time.

Mr. *Andel*, who was another witness, proves the general Testimony of the rest, and agrees in some particular things; and all he says, is to the same purpose.

Mr. *Christopher Tuberville*, he comes and swears *Oates's* being at *St. Omers* the fourth or fifth of *May*, which is the twenty fourth and twenty fifth of *April*, Old Stile. For that upon Mr. *Pool's* going away, he changed his Chamber in the College, and saw *Oates* divers days afterwards in his Chamber, and at the Door; and he knew that he constantly read in the Sodality, and that he left particularly the Sunday before he went away; which was about *Midsummer*, 1678.

There was another Gentleman, and that was Mr. *Anthony Tuberville*, who gives Evidence all to the same purpose; and this Circumstance goes thorough all the Testimony of these Persons, that there's scarce any body can come to, or go out of the College, but it is known to all that are there, every man takes notice of it, 'tis the Common Discourse amongst them; and therefore they give this as the Reason of their Belief, That he was there all this while, because they did not remember any thing that should give them occasion to believe Mr. *Oates* was away from the College from *Christmas* till *Midsummer*, but only one time; and the remembrance of that does show, That they do really observe these things; for they could all tell that in *January* he went to *Watton*, and staid out one Night.

There is one witness more that is positive and particular, and that is Mr. *Clavering*, and he remembers *Oates*, by a very remarkable Circumstance, was at *St. Omers* at the very time the Congregation is said to be held in *London*; for he tells you there came a Person to beg money of him, and there was a Collection made in the House; and this Person did desire to speak with *Oates*, who was then in the College; and whom it seems this Person had known in *Spain*; but *Oates* did refuse to speak with him, and did not come down to him. Thus he remembers such an one came there, and when he was there, he was sent to *Oates* to desire him to come down to this man, and he would not. Ay but now how is this remembred to be at the time when the Congregation was held here in *England*? As to that, he gives this plain and full account, That it must be at that very time; for the Scholars did discourse among themselves, and were reckoning up what he had gotten among them, and what he had gotten at *Watton*: and finding that it was very inconsiderable that he had gotten at *Watton*, they talkt among themselves what should be the Reason, and concluded it was, because the Fathers were gone over to *England* to the Congregation.

These particular Circumstances our witnesses give you as the Reasons of their particular Remembrances of the particular times: But, Gentlemen, you must take along with you these General Considerations too that are offered, which do affect the whole time, from *Christmas* till *Midsummer*. First, That none can come or go, without being discoursed of in the College: Next, That much more Mr. *Oates* must needs be missed; than
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any other, being so Remarkable a Person, as they tell you, that scarce any week past without his making it remarkable by some ridiculous Action or another. They say he sat singly by himself, at a particular Table, that no man could come into the Hall, but they must see him; and therefore if absent, must needs miss him. And yet they swear they do not ever remember him absent, but that one Night; and if he had been absent, they must needs have observed it, because of all those Circumstances that have been reckoned up.

These are the witnesses, Gentlemen, that we have produced to prove this Charge upon the Defendant, two of whom are brought only to verify Mr. *Hilley's* Testimony; having heard it from him at that time that he had left *Oates* at St. *Omers*; when there was no thoughts of this Question.

Now among these twenty witnesses, there are not above two or three at most that were at either of the Trials before. They were never produced as Evidence; though indeed they proved the same thing that was testified by others then; but with many other Circumstances and Particularities that were not before spoken of; some are now produced that were produced before, and the reason is, because they are themselves concerned in those particularities which gave occasion to the others to remember them.

Gentlemen, after the producing of so many witnesses, and so strong a proof; what is it that Mr. *Oates* has produced against it? His main Objection to their Testimony, is, There were several that came from St. *Omers* to testify at those former Trials, what these now swear, who were not believed, but I was believed, and the men were Convicted, Condemned and Executed upon my Testimony: But is that all he has to say? No, says he, I have likewise witnesses to offer as a Counter proof to them, a positive proof that I was here in *England* at the time they swear me to be at St. *Omers*; and he says well; if that be proved, there is an end of the Case. Well, what is the proof? the witnesses that he has have been these four, *Ciceley Mayo*, servant to Sir *Richard Barker*, *Butler*, his Coachman, *Page*, another of Sir *Richard's* Servants, and the Parson *Walker*.

The Evidence of *Page* and *Walker*, though produced last by Mr. *Oates*, yet I crave leave to mention first, and set them out of the way. *Page* he remembers to have seen Mr. *Oates* in a Disguise at Sir *Richard Barker's*; that is in Grey Cloths; but he is not certain as to the time, and he cannot take upon him to say, what time of the year, or what year it was, only he believes it was in *May*; and therefore that can be no sufficient Evidence to contradict witnesses, that with great particularity speak to certain times. As for *Walker*, the Parson, he said he saw him between St. *Marrin's* Lane and *Leicester* Fields; but he cannot remember the time when neither: Nay, the remembrance he has of it goes rather to another time, than the time in question; for being asked what Circumstance he knew the time by, he said, it was about a year and a quarter before the Plot was discovered, which must be in *April* or *May*, 1677. and that will do the Doctor no Service at all upon this Question.

Now let us consider Mrs. *Mayo's* Testimony; and the Oath that she made was this, That when *Oates* came over into *England*, she saw him at Sir *Richard Barker's* House the latter end of *April*, or the beginning of *May*, and the week before *Whitsontide*; the latter end of *April*, or the beginning of *May*, was the first time that he came, that she saw him; but that he came before, as she heard, but the Coachman only saw him, and told her that *Oates* had been there; but the second time she did see him, and he went in and dined there in the House: Sir *Richard Barker* was not there, but my Lady's Sister, her Sons and Daughters were there; she says, that she saw him again a week before *Whitsontide*; that when he came the first time, he was in grey Cloths, a white Hat, and a short Periwig: Afterwards he was in black Cloths, a pretty long Periwig, not very long, but the Periwig was brown; and these are the Circumstances she remembers to have seen him by.

Now let us see what *Butler*, the Coachman, says, he remembers about the beginning of *May* he saw *Oates* at his Master's House in a Disguise; the other said it was the latter end of *April*, or the beginning of *May*: But I stand not upon that; but this he does swear, That the first time he saw him, *Ciceley Mayo* saw him too, that he was then in grey Cloths, a white Hat, but his hair was cut short, and he had no Periwig on; afterwards he came in a cinnamon coloured Coat, and green Ribbons, and a long black Periwig: This is *Butler's* Evidence.

Now these two People's Evidence are utterly impossible to be reconciled; they contradict one another so much: First, They contradict one another in this; she says, The first time he came, she did not see him, but the Coachman told her, he had been there; but he swears, That she did at that time look out of the Window into the Yard, and did

see

see him as well as he: Another Contradiction is this, She remembers the first time he came in grey Cloths, a white Hat, and a short Periwig; the Coachman he swears he had no Periwig on, but his hair was cut short to his Ears: Then again she swears the second time, he was in black Cloths, and an indifferent long Periwig, and the Periwig was brown; and the other swears he was in cinnamon colour Cloths, and a long Periwig, and it was a black one. Now thus you see the witnesses contradict themselves, and cannot be reconciled to one another.

But take one thing more, which is very considerable, wherein she contradicts Mr. *Gerrard*; for she swears he was here a week before *Whitsontide*, that she is sure of: Now that falls upon the nineteenth day of *May*; then upon the sixteenth day of *May*, was the week before *Whitsontide*; now, that is a most Eminent Day, by the Testimony of Mr. *Gerrard*; for that happens to be the twenty sixth of *May*, New Stile, and that was the day he was confirmed with Mr. *Gerrard* at *St. Omers*: And no man sure can doubt, which of the two witnesses is to be believed; and it cannot but be true, that he was there at that time; because so remarkable a Circumstance cannot be forgotten; and yet this Woman swears that he was here a week before *Whitsontide*, and that by Computation must be the time of his Confirmation: But, Gentlemen, another thing that I offer upon the Testimony of these witnesses, is this; If you will believe it, he himself contradicts his own witnesses, or they him, and one of them is forsworn: For he has sworn the Consult was the twenty fourth of *April*, and that three or four days after that was over, he went back with the Fathers to *St. Omers*: Now, this contradicts all that his witnesses have said: But he has given himself, as he thought, some little latitude; says he, the Consult began the twenty fourth, but it held six or seven dayes longer. We will for this time admit it to be so, and give him the six days he requires; and yet after all, it will not come up to the time that his witnesses speak to; for to the twenty fourth of *April*, add six days, and that brings us just to the last day of *April*; and then take four days in *May*, to make up the three or four days after the Consult was over, and we are yet at a great distance from the *Whitson* week; for that was the nineteenth of *May*, and the week before must be the twelfth or thirteenth, and so it is impossible to be reconciled to Truth, what he and his witnesses swear; either the Evidence that the Doctor now brings, must be a Contradiction to his own former Oath, or his Oath proves they are mistaken; besides the Contradiction that is between the witnesses themselves; for they vary in a great many material Circumstances, which I have before reckoned up to you.

But, Gentlemen, false witnesses are very often detected by little Circumstances, though I must needs say these are not small ones; for these are very remarkable things in themselves, and great Contradictions to one another, and therefore 'tis impossible they both can swear true.

There were some other witnesses that were produced by Mr. *Oates* formerly upon this point; one of which was *Clay*, the Priest, and he you hear is contradicted by Mr. *Howard's* Testimony, who not only tells you he was not at his House, when he says he was; but shews that *Clay* was mistaken in point of time: It was not in *May*, but in *July*: But that's not all, we have another Evidence, Gentlemen, to show how this mistake comes to pass, and which will give a great light into this sort of practice that has been used in this matter; for we have two witnesses that give you an account how *Oates* and Sir *William Waller* were at the Gate-house with *Clay*, and there did threaten him, That unless he swore he dined with *Oates* at Mr. *Howard's* in *May*, they knew he was a Priest, and he should be hanged: The man was somewhat cautious at first, for truly he knew nothing of the matter, but at last, upon condition he might have his money again that was taken from him; he had been a Rogue formerly, and he did not know what he might do: Now, we find presently after, that he was in fact brought as a witness; what he swore, Mr. *Howard* tells you, and you have heard him contradicted in that point of time. For Mr. *Howard* says, it was in *July*; and then it was agreed, that *Oates* was in *England*; for our witnesses tell you, that at *Midsummer* he came away from *St. Omers*.

So that, Gentlemen, the Evidence that was formerly produced for him, is not only taken away by positive Counter-proof, but there is fixt upon him, with great Infamy, the additional Crime of Subornation, by forcing People to swear for him under the Threats of being hanged; and we all know how such People lay under great fears and terrors at that time.

There was another witness that was produced formerly for him; but I shall not take upon me to repeat all the particular Evidence that has been now given about that

matter : In short, our Objection to that Testimony lies thus ; That *Oates* did swear in his Narrative , that *Smith* was a dangerous man, and imployed by the Jesuits to stir up the People against the Government ; that appears by *Oates* his own Oath. But it likewise appears , that afterwards they were reconciled , and that he gave *Smith* a Certificate under his hand, that he was a good Protestant, and a good Subject , and about Eminent Service for the King : Now , we see no reason hitherto , why Mr. *Oates* should change his mind , after having sworn him such an ill man, all of a sudden to be so kind to give him his Protection, and so advantageous a Character, as that was in that Season. But, Gentlemen, the mystery is easily unfolded , if we go three or four days further in time, which brings us to the Trials of *Whitebread* and *Langhorn* ; it seems Mr. *Oates* was then aware of that, which is now an Objection to his Testimony ; for it was made an Objection at the first Trial of *Ireland*, That he was not at this Consult , for he was then actually at *St. Omers* ; but no witnesses were there to prove it ; but now he was aware that some were a coming over , and it concerned him to make some good proof if he could, that really and in truth he was here in *London* at that time.

And I cannot omit to take notice of what my Lord Chief Justice was pleased to observe and object to him now ; It is a wonder a man should be here in Town so long ; a man that had much Acquaintance, as it seems he had , a man that went about freely and publicly , as his own witnesses say he did , should be seen by no body , but these few, should not be able to give an account, by any body, where he lodged, at any one time in this Interval. Nay , by no Circumstances that must occur to his own Knowledge , to be able to shew where he lodged , is very strange ; though it should be that he did lodge in the Houses of those that would not come to give Evidence , as he alleadges , yet it is almost impossible, but there must be some other Circumstances to prove his being here, besides the Evidence of the Landlord of the House where he lodged ; but he gives no account where he was lodged, and whom he conversed withal, but these People only ; and that they should see him, who were not his Intimates, and none else in the World , is to me one of the most strange things that can be conceived.

Now Gentlemen, when he has given no manner of satisfaction, that he was here , and is by twenty witnesses sworn not to be here ; What is it that he says to all this ? why, he doth insist upon it, that his Credit must not be now impeached , because that once he had the fortune to be believed , and some men have died and suffered for it ; as if no Perjury were to be punished , but that which is unsuccessful ; whereas the reason why Perjury is taken notice of in the Temporal Courts, is only because of the mischief that it may do : Shall it then be no Crime when a man has done the mischief, when the fear of that mischief was the ground of making it a Crime ? that is a most monstrous way of arguing. And yet this would Mr. *Oates* have look like an Argument , that because he has been believed in his false Oaths , and men have suffered by his Perjury , and he has been successful in his Crime , that Success has protected his wickedness from punishment. This I confess is a new way of arguing ; and such as none but Mr. *Oates* could certainly have invented.

But, Gentlemen, to contradict this, we have shown you , that as he has had the fortune to be believed ; so he has likewise had the fortune to be disbelieved. For there has been produced as many Records of Acquittals , where he was an Evidence , as there have been produced Convictions upon his Testimony ; so that he has been as often disbelieved as believed.

Whether then does he betake himself next ? he has called a great many witnesses to give you, as Evidence for him, an account what Opinions at that time the Houses of Parliament, the Courts of Justice, and the Juries had of his Evidence ; and then insists upon it, that now to call his Credit in question , is to arraign the Justice of the Nation, the Wisdom of both Houses of Parliament that believed him, the Honesty of the Juries that convicted those whom he accused, and the Integrity and Understanding of the Judges who were Learned, Wise and Just men ; and with great earnestness he asks the question ; Why now at this time of day should this be called in question ; which received so much Credit and Approbation so long ago , by the good opinion that all sorts of men had of it at that time ? And, Now to question this , he would have thought to be casting a Blot upon the Wisdom of the Nation, and an arraigning the Justice of it ; when, if the thing be duly considered , the not punishing this heinous offence with the utmost severity that the Law will allow of , now, that these Circumstances appear to make it plain and evident, would be a greater piece of Injustice and Reproach rather to our Nation, than any ways a Reflection on the Justice of it.

Gentlemen,

Gentlemen, when we consider the Circumstances of this Case now I do verily think it will appear to be a very strange and wonderful thing to us, that ever any man should have believed him. And it is a strange Consideration to reflect upon, to think what Credit he had at that time. But withal consider, Gentlemen, could any one imagine, that it were possible for any man on Earth to become so impudent as to dare to expose himself before the High Court of Parliament, the great Courts of Justice, and there tell a most Infamous Lye for the taking away the Lives of men? the greatness of the Attempt was a great inducement to the belief of it, because no man could be presumed to dare the doing of such a thing, if he had not a Foundation of truth to build upon. And when he had thus made his discovery, and that of such a nature too, a most horrid, bloody and traiterous Conspiracy to murder the King, to overturn the Government, to massacre all the Protestants in the Kingdom, and to deface the very name of the Protestant Religion. What was more natural than that the Parliament should take all imaginable care to prevent the accomplishment of so great a mischief. And consider too how much easier it was for him to relate his Evidence in a continued Story, than afterwards it was to maintain it, when it came to be examined and opposed by them that were accused, who best knew wherein, and by what means to prove him false.

Gentlemen, the Care the Parliament took to disappoint any designs of this nature, and the means they used for the security of the King and Kingdom, and the Preservation of our Religion and Lives, (which I cannot but observe was previous to the Trial of any one Offender, that was tryed and convicted upon this Evidence) must needs put the whole Nation under great apprehensions of danger, and make the way much easier for him to be believed, as by sad experience we found it did. Under these circumstances came those men to be tryed, with this further (as we cannot now but think) that there were ill men at work, that laboured to improve those fears and Jealousies, that had already possessed mens minds; the wonder then will be the less, if men under such disadvantages, tryed by men under those fears and apprehensions, had the ill Fortune to be convicted. But when men had a little overcome their fears, and began to consider his Evidence more calmly, the scene was changed, *Oates* lost his Credit, and the men were all acquitted. Nor is this Prosecution any reflection on the Protestant Religion, whose cause he falsely assumes to himself. No, Gentlemen, the Protestant Religion had no share in that invention. It needs not the support of a Lye, no not the most plausible Lye, much less of one so Infamous as this does now appear to be. It is rather a Vindication of our Religion to punish such Offenders as they deserve, and the proper way to maintain the Justice of the Nation, and wipe off that reproach this mans Perjury has brought upon it.

L. C. Justice. Then Gentlemen of the Jury, the Evidence has been very long, and it cannot be expected after so much time has been spent in this Cause, and such a difference of testimony, and especially considering that the testimony has met with frequent interruptions, and I may say some part of it delivered in great Confusion, it cannot be thought or imagined, I say, that I should be able to remind you of the several particulars that concern this Case, and may be necessary to be observed about it. But, Gentlemen, I am sure by the Knowledge I have of the most of you, you are persons of great Understanding; so that what may be omitted by me, I question not, but your own abilities will supply; I confess I am much shortned in my Labour by the pains, that Mr. *Solicitor* has taken to sum up the Evidence to you, and without all doubt has done it with all Faithfulness to his Master, and with great Right to himself. I could not hear much of what he did say; but you, who were nearer and did hear all, which I could not do, your Judgments will direct you to lay that weight upon it, which it deserves, and which the Law will allow; for Gentlemen I am bound to tell you, that you are to lay no weight upon any Allegations on the one side or on the other, or what is observed to you by the Court, further than is supported by the Testimony that has been offered.

Now, Gentlemen, I think it not amiss for me (before such time, as I enter upon the Consideration of the particulars, and reminding you what I take to be Evidence in this case, and what not) to clear one point, that this person *Oates*, the Defendant, against whom this Indictment of Perjury is brought, has endeavoured to insinuate on purpose to gain himself a Reputation, which if he could acquire this way, would add a greater Reproach to the Justice of the Nation, than it has contracted already by giving too much Credit to such Profligate Wretches, as have too lately appeared among us. The Objection he makes and insists so much upon; says he, I was believed very much before, I can produce you the opinions of the Judges, that declared themselves very well satisfied with my Evidence, and the Verdicts of Juries, two or three, that convicted men upon my Testimony; and not

not

rot only that , but here were likewise three or four Parliaments that did not only believe that Testimony , (or rather Narrative ; for I cannot call that Testimony which was given before the House of Commons) that I gave , but did declare their Satisfaction of the Truth of what I said , which Satisfaction and Belief of theirs did produce thanks from both Houses to me for giving this Testimony.

But all this while , what Mr. *Solicitor* said upon this point , is a plain and a full answer to it : If in case upon a suddain information , the King , the Parliament , the Courts of Law , and Juries , were surprized into this Belief , as not imagining there could be a pack of such Villains , that could be wound up to that height , as these Fellows have been ; that there could be such an horrid Impolture , as this Fellow , that should make such attempts , unless there had been some truth in it.

Therefore the surprize of the thing , at that time , might obtain a Belief ; but , God forbid , that that Belief which was so obtained , should protect the Party believed from being called in question for the falshood of that Testimony , which was the ground of that Belief . It was hardly credible that any Person could be so wicked as to declare such impudent falsties as these ; but , God forbid , that we should continue longer under the same blindness and delusion , the whole matter is now laid open and detected . Therefore , Gentlemen , if you are satisfied in your Consciences , and do believe upon the Testimony and Evidence that has been given here this day , that those very things that were so much believed before , were credited upon the surprize of a suddain discovery , or the boldness of the undertaking , yet now do plainly appear to be false ; then be it , I say , upon your Consciences , if you let this falshood go unpunished : It is a Charge upon us who are upon our Oaths as Judges , and who must answer to the great Judge of all the World [for our Judgments ; and 'tis likewise a Charge upon you that are sworn to try this Cause , and must answer , as well as we , for what you do in it , not to have regard to any thing that was done before upon that hurry and surprize , but seriously to weigh and consider what is sworn now , and from thence to make a Conclusion , whether you are not satisfied that Innocent Blood has been spilt by the means of this Fellow : Nay , in this Case 'tis a contracting of much more Guilt than ordinary , as it is Murder done under the Forms of Law , and common Methods of Justice ; that men should take away the Lives of their Fellow Creatures , by Perjury and False Accusations , is of such dreadful Consequence , that if the Justice of the Nation shall be afraid to have such matters detected , there would be an end of all the Security we have of our Lives , Liberties , and whatsoever is dear to us .

Gentlemen , the Justice of the Nation lies under a very great Reproach abroad ; for this particular thing , and we must be , all of us , that have any Concern for the Honour and Good of our Country , uneasy , till this matter be thoroughly searched into , and impartially determined ; and I take it to be a Case of the greatest Importance to the Settlement of the Kingdom , for the Credit of our Laws , for the Honour and Justice of our Kingdom , that ever came in Judgment in any of our Courts of Justice . And therefore as you respect your own Consciences , and the Obligation of that Oath you are now under , and as you would be thought to bear any regard to the Peace , Honour and Good of your Country , take care to examine strictly and impartially into the Merits of this Cause , and weigh the Evidence which has been given on all sides : Be not at all dismayed with the Apprehensions of Clamour or Calumny , from any sort of People whatsoever , for doing your Duty ; neither be led away by the Insinuations of what was believed formerly ; for you hear the reason which might make *Oates* be believed then ; but it is incumbent upon you to enquire , whether you have not sufficient reason to be satisfied what the truth now is .

And , Gentlemen , I take my self to be the more obliged to take some pains in the pressing a serious and Impartial Consideration of these things upon you , because I cannot but say , my Blood does curdle , and my Spirits are raised , that after the Discoveries made , I think , to the satisfaction of all that has attended this Day , to see a Fellow continue so Impudent , as to brazen it out , as he has done this Day ; and that there should appear no more Shame and Confusion than what was seen in the face of that monstrous Villain that stood but now at the Bar ; the pretended Infirmary of his Body made him remove out of Court , but the Infirmary of his depraved Mind , the Blackness of his Soul , the Baseness of his Actions ought to be looked upon with such Horror and Detestation , as to think him unworthy any longer to tread upon the Face of God's Earth : You'll pardon my warmth , I hope ; for it is Impossible that such things should come before any honest man , and not have some extraordinary Influence upon him .

Gentlemen ,

Gentlemen, as to the Merits of the Cause, you have the positive proof of many Witnesses, whose Testimony, I shall by and by, as well as I can, repeat to you; but pray you first give me leave to observe somewhat, as to some points, that have been started at the Barr, as, Whether a Papist can be a Witness: Now suppose all these persons, that come here to testify this matter against the Defendant were Papists, as they are not, except you can take it upon your Oaths and Consciences, that all these men are guilty of voluntary and wilful Perjury, you must find the Defendant guilty.

As to their difference in Religion, which *Oates* so much hung upon, I must tell you, every Papist or Roman Catholick, call them how you will, except the contrary be made appear by a Legal Exception; I mean such, as would take off the Testimony of one, that were not a Papist, is as good a Witness in a Court of Justice, as any Protestant whatsoever; we are not come here to controvert points of Religions, but to try a bare matter of Fact; so that all that stuff, that you have heard here this day from the Defendant, and those Insinuations, that he made about their Religion, on purpose to cast dirt and filth upon all the Testimony, that they have brought against him; must signifie nothing with you at all. If in Case such Doctrine happen to prevail, as he has this day preached, then it is in the Power of any Villain, to swear any Mischief whatsoever against a Roman Catholick, and that Roman Catholick has no way to vindicate himself, nor to make the Truth appear. We have no such Exceptions to Witnesses in our Law; every man till it is made to appear, that his Credit is forfeited, may and ought to be received, as a Witness to give Testimony in any Cause; so that all that matter is of no Import at all.

And, Gentlemen, I am the rather minded to hint this unto you, because he has insinuated something out of the Trials of *Groove*, and *Pickering*, and *Ireland*, which was in *December*, in the Year 1677. at which Trial, *Whitebread* and *Fenwick*, who had pleaded to the same Indictment, were brought on to Trial; but because there was but one Witness against them, the Court discharged them for that time, and they came not again to Trial, till the Month of *June* or *July* hereafter, when they were convicted and executed; now between that time of *Ireland's* Trial, and the time, when *Whitebread* and the rest came on to Trial again, says *Oates*, they had sufficient time to have brought all their Witnesses from *St. Omers*, to testify this business of my being there, having notice by the former Trial, what Evidence was against them; but all the Witnesses they did bring, which were about fifteen or sixteen, were not sufficient to countervail the Testimony, that *Oates* gave of his being here in Town, and thereupon they were convicted, condemned, and afterwards (I am sorry to say it) executed.

This is the Objection he makes, but at the same time I must repeat what I said before, when such a dismal Story as this was told, when he had the Confidence to relate it before, in the Houses of Parliament, and there obtained Credit; no wonder, if in that hurry, all of that persuasion were look'd upon with an Evil Eye; and the conviction of those that were at that time accused were too easy.

We must remember the apprehensions some were under, of our Religion being to be subverted, our Government to be destroyed, our King to be murdered, our Throats to be cut by the Papists, to that height, that this very Fellow, *Oates*, was so much credited, that all other people almost were below him, and greater Respect shown to him, than to the Branches of the Royal Family: Nay it was come to that degree of Folly, to give it no worse name, than in publick societies, to the Reproach and Infamy of them be it spoken, this profligate Villain was called, was drunk to, and saluted; by the Name of the *Saviour of the Nation*. O prodigious madness! that such a Title, as that was, should ever be given to such a Profligate Monster of Impiety, as this is.

Good God, whither were we running, when many easie people were so strangely wrought upon by this Impostor, and when the villainous and black designs of some Evil Instruments amongst us, could prevail so far, as to deceive almost a whole Nation into the Belief of so horrid a Falshood; even at the same time, that a hidden Treason too deeply contriv'd was carry'd on amongst us?

but, God be thanked, was not too lately discovered. The Conspirators had a fair Game of it, whilst this Fellow was believ'd, and they needed no other means to accomplish their Design: But when he was found false, and the pretended Plot, had lost its Credit in the World, what is their next step? why, then they enter into that Black and Bloudy Conspiracy, from which it hath pleased God lately to deliver us.

I speak this the rather, because I know there are in my Eye several persons, whose fears of Popery, made them give Credit to such Villains as these before: But when it pleased God to open their Eyes, and the false mist vanish'd, they found a Real Conspiracy, against the Persons of that Blessed King, lately dead, and of our Gracious Sovereign, now Living, carried on under the pretence of that false, but so much credited discovery, and now God be thanked all our Eyes are open. And I hope, as we are secured from what we so vainly dreaded, so we shall not be afraid to have Villainy detected, and the greatest mark of Infamy that can be put upon it.

Yes, Gentlemen, there was a Consult, and there was a Conspiracy against the Life of our King, our Government, and our Religion: Not a Consult at the White-Horse in the Strand, but a Cabal and Association of perfidious Rebels and Traitors, who had a mind to embroil us in Bloud and Confusion, but, God be thanked, it had not its desired Effect; the same sort of Villains, were Parties in this Conspiracy, that had too great a hand in the late great Rebellion, which we to this day feel the smart of, and they had a mind to make use of the like Instruments, as they did before, to bring us into the like misery, as we were before involv'd in.

And is it not a prodigious thing, to have such actions as these to day defended in a Court of Justice, with that Impudence and Unconcernedness, as tho he would Challenge even God Almighty to punish his Wickedness, and Blasphemously bless God, that he has liv'd to do such wonderful Service to the Protestant Religion; and is so obstinate in his Villainy, as to declare, he would venture his Bloud for the Confirmation of so impious a Falshood: and indeed to speak the Truth, he makes no great venture in it; for when he had pawn'd his immortal Soul, by so perjur'd a Testimony, he may very easily proffer the venturing of his vile Carcass to maintain it.

Gentlemen, having thus said (and I could not forbear saying of it) give me leave to put you in mind of what lies before you now to be try'd. First, this Indictment takes notice, that there was an Indictment, taken before the Commissioners of Oyer and Terminer, and Gaol-delivery at Hick's-Hall, of High Treason against *Whitebread, Fenwick, Ireland, Pickering and Groog*, and that Indictment, and the whole Record is proved to you by *Swift*: For I must tell you as I go along, what proofs there are of all the particulars, and you, upon Consideration of all that is alledged, are to be Judges, what is sufficient proof to convict the Defendant of the Crime, that is laid to him; which is wilful and corrupt Perjury. The Indictment, Gentlemen, sets forth the Oath, that *Oates* did make at *Ireland's* Trial, and then avers it to be false: For the Oath that he did take, that stands thus, That he did swear he was present at a Consult, held at the White-Horse-Tavern in the Strand, the twenty fourth of April, 1678: That he did swear, That it was there resolv'd to murder the late King: How that that Resolution was carry'd by him from Chamber to Chamber, that is, to *Whitebread's* and *Fenwick's*, and *Ireland's* Chambers, and saw them sign this resolution there; and the Assignment of the Perjury, is, That he was not present at any Consult, 'tis not that there was not any such Consult, though it appears by the Evidence that there was none such, but that he was not present at any Consult at all held there at that time.

Now, that he did make such an Oath, is proved by a worthy Gentleman, *Mr. Foster*; a Gentleman known to you all, that live in the City of London; and he did truly make that Remark in the beginning of his Testimony, that any honest man in his place would have done, That he was one of those unfortunate men, that try'd *Mr. Ireland*; for though a man do go according to his Conscience, as to be sure there is no question to be made of it, but all these Jury men did in finding that Verdict; yet when I come to find, that the Evidence, upon which I convicted those men, is detected to be false; and that upon my Verdict the persons were executed;

executed; tho no Guilt of their Bloud is really contracted by me; yet I cannot but think my self unfortunate, that I was, though innocently, an Instrument of their death: and there is never an one of you, but would have thought your selves unfortunate, if you had convicted men upon such a Testimony, which though you believed then, yet afterwards you should have reason to conclude was false. And yet *Oates* would have you think, that because they believed him when he was a Villain, and not known to be so, you must believe him, notwithstanding his Villainy is now discovered; for that is all the Argument this Learned Doctor has a mind to impose upon you by.

Gentlemen, Mr. *Solicitor* has been very particular, in giving an Account of the whole Evidence, and then it comes to this, which is the natural question in the Case, Whether upon the Testimonies, that have been given to you, there does remain so much as a doubt, what Verdict you ought to give; for I confess, were it a thing in the least doubtful, matters of Perjury are so nice and tender, that we and you ought to be Cautious how we convict People for Perjury in doubtful matters; but if it be a thing without doubt, and plainly Evident, that there was a Verdict thereupon, adds to the Guilt; because the Justice of the Nation is imposed upon; the God of Heaven deliver every honest man's Soul and Conscience from such Guilt. For my part, I would not for the Universe, have the least Guilt of Innocent Blood lie upon me.

Then, Gentlemen, to prove what *Oates* swore is not true, you have no less than twenty two Witnesses, that swear directly he was not here in *London* the twenty fourth of *April*, 1678. But it may be that it is not such a Positive Testimony as the Law requires to prove a Perjury; but then to swear directly that he was in another place at that time, is a positive contradiction to his Evidence; and this has been testified by the Oaths of twenty two Persons, against the credit of whose Testimony there is no Objection at all really made, but only Impudence; and that shadow of an Objection, They are all Papists, and I am a Protestant; and truly a wonderful credit it is, I must needs say, for the Protestant Religion for to have such a Learned and Pious Supporter, as Mr. *Oates*, to be of that persuasion; but it is certain there was a *Judas* amongst the twelve Apostles, and there are Rascals of all persuasions. And truly I take it makes never the more for his advantage, nor the Honour of our Church, that he is pleased to call himself by that name, which he, and such as he, have brought into some Scandal and Reproach, by setting themselves up, as the great Pillars of it; but we know Doctor *Oates* has been very Liberal to himself, he has given himself Baptism, and given himself the Doctor's Degree; and now he gives himself the Title of the Reforming Protestant, Mr. *Oates*. We have Protestant Shooe-makers, and Protestant Joiners, and Protestant Atheists, and all sorts of true Protestant Rascals; but it becomes us and you to assert the Honour of our Religion by disowning any Fellowship with such Villains, or their Actions.

Gentlemen, the Method that was taken, gives you an exact account in point of time, as to this whole Business. First, says Mr. *Hilsley*, I left him, in time the twenty third of *April*, New Stile, at *St. Omers*, and I am sure I saw him there then; which is the thirteenth, Old Stile; the twenty fourth of *April*, New Stile, which is the fourteenth, Old Stile, I came from *St. Omers*, I did not see him there that morning, but I my self came to *Calis*, it being Sunday, and I stayed there till Sunday in the Afternoon, and all night. I came on Monday in the Afternoon to take water at *Calis*, and from thence went to *Dover*. And from thence the next day I went towards *London*; but I stayed four or five days by the way before I came to *London*; but then there is this Circumstance that you must take along with you, Gentlemen. That at this time, one Mr. *Bournaby* was coming from *London*, and going to *St. Omers*, and met with Mr. *Hilsley* in his way towards *London*; says *Hilsley*, I came afterwards to Town, and that was upon the Monday following, which happens to be the twenty first or twenty second of *April*, Our Stile; but this I do remember very particularly,

ticularly, which makes his Testimony to be true, and not dressed up for this occasion; says he, I told one *Osborn* at that time that we had a pretty fellow at *St. Omers*, that went sometimes by the name of *Lucy*, and sometimes by the name of *Oates*; a Minister of the Church of *England*; and there he comes and gives an account of his ridiculous childish Actions, and what a remarkable Fellow he was; and this, says he, I told to *Osborn*.

Now to make this good, you have one Mr. *Dorrel*, who tells you there happened a Discourse, where he was present, between his Mother and Mr. *Osborn*, about Religion; and amongst other things, *Osborn* did say, Mr. *Hilsley* had told him he left *Oates* at *St. Omers* when he came away from thence; and Mr. *Osborn*, he comes and says, I remember I did tell Mr. *Dorrel* and his Mother, at that time that Mr. *Hilsley* did tell me this Story: So that here are these two Witnesses which support Mr. *Hilsley* in that Circumstance of the time of his coming away, and his Relation of *Oates* being left behind him, and that this was related about the twenty first or twenty second of *April*.

Bourneby is the next Person that was produced, and he swears he met *Hilsley* by *Gittisbourn*; and he happens to set out for *St. Omers* the eighteenth of *April*, Our Stile, and to come thither to *St. Omers* the twenty first; and he swears positively that he was there the twenty first, twenty second, twenty third, and was there the twenty fifth day of *April*, Our Stile; and he does positively affirm, that all those days he saw *Oates* there at *St. Omers*; that *Oates* intruded into his company at his first coming; and that he and all the other Scholars wondered at the confidence of the man; and he particularly remembers that he was with him at a Publick Entertainment that was there the twenty fifth; and if so, then it is impossible that what *Oates* has sworn of his being at the Consult the twenty fourth of *April*, Our Stile, can be true; and except you can imagine Mr. *Oates* to fly from *St. Omers* the twenty fourth day in the morning, and be at the Consult and back again at night, which is more than he would have believed, because he swears the contrary, you must conclude that what he swore was false.

The next Witness is Mr. *Pool*, and he comes and says, he was there at *St. Omers*, and he came over from thence the twenty fifth of *April*, and that was the day after *Oates* swears the Consult of the Plot to be here; and all the rest of the Witnesses do directly swear, That at the time that *Pool* went from thence, *Oates* was there; so that the Testimony of *Pool* is fully and positively confirmed; and *Pool* gives you a reason, why he came over, which was the death of a Brother of his, and upon a Prospect of an Estate he came into *England*, which likewise is a reasonable Circumstance why he should remember the time, because he had such Inducement to come over hither.

The next, Gentlemen, is one *Thornton*, and he comes to the Month of *May*, to the first and second of *May*, Their Stile, which was the twenty first and twenty second of *April*, Our Stile, and particularly he is sure *Oates* was there upon the twenty second of *April*, Our Stile, that is the second of *May*, Their Stile. For says he, there was an Action or a Play of the Scholars; and I can tell you how I remember *Oates* was there, *Oates* had a mind to have a place to see the Play, which he had no pretence or title to; and he had a scuffle with some body about it; and therefore I remember by that token, that he was there at that time.

Now, Gentlemen, it is not easie to be imagined, that six or seven men should agree in their Testimony in all those Circumstances, which in themselves are but minute; yet when offered as Reasons to induce mens Remembrance, must be allowed as good Reasons; and yet this to be thought to be but a made Story. If *Sir Richard Barker's* Coach-man, and Mrs. *Mayo* had had any such Circumstances to support their Testimony, they would have had much more Credit.

Then

Then there is one *Conway*; and it is very observable what he speaks of: for he was there all the while that they say *Oates* was there, and he gives you an account that he saw him with *Bournaby* the first time he came over, and agrees with *Bournaby* in this, that he wondred much at his confidence, and did think that he was very well known to him before: He swears *Oates* came in thither about the beginning of *December 77*, and he was not absent, says he and several more, any one night, except in *January* once at *Watson*, till he went away in *June 78*. Nay, they are so precise in their memory for very good reasons, because they are so regular in their Societies, and keep a strict Order, each has his fixed place in the Refectory, where all the *Socii* or the Members of the Colledge do meet; and because this Fellow was an old Fellow, older than the rest, and likewise was a Dunce, therefore he was set at the Dunce-Table in every bodies view, because he was a Blockhead, and too old to keep company with the Boys; so that though perhaps one of those young Fellows in a mixt Society may escape the view, and be absent without being mis'd, yet Remarkable Mr. *Oates* is not so easily forgotten, that us'd to sit by himself. And as that Noble Lord my Lord *Gerrard of Bromley* says, he has a particular Face, and a particular Tone; and there was more reason to remark him than any other, both upon the account of his Person and of his Actions; so that I must needs say indeed, it is not a downright and positive swearing, but their Testimony is given with deliberation and recollection of such particular Circumstances as may reasonably induce any unprejudic'd person to give credit to it.

The next Witness, Gentlemen, is *Haggerston*, whose Evidence is wonderful particular, and very material, as to the Circumstances that accompany it. For you are to observe, that in these Colledges some are of the Sodality, and some are not; and some are of such and such Classes or Forms, and others of other. Now this Gentleman and Mr. *Oates* were of the same Form, and he does particularly remember that he was setting up for a Preacher, as he has an excellent knack that way; and he tells you how ridiculous he made the late King in a Sermon; that he halted between two Opinions, and there ran a stream of Popery between his legs; and such-like precious stuff he vented. And to fix it to be about the same time that is now in question, he says, he particularly remembers it was when he was Reader, when Mr. *Oates* was, it seems, the Buffoon to the Society, or as I may call him, the Jack-pudding to the Colledge, that us'd to make them sport, and was guilty of so many ridiculous things, that they could not but put particular Remarks upon him.

Next, I take notice that this person says, there were two persons, *Williams* and *Marsh*, that were qualified to give Suffrages in the Congregation, that is, they were pass'd eighteen years standing, and did go over: For that there was a Consult, is not denied, nor that it was in *London*, nor that it was upon the 24th of *April*; but they say, it was a Triennial Meeting, which they us'd to have once in three years for the choice of some Officers to manage the Affairs of the Society; as for the choice of a Provincial, and other persons that they were to send upon their Errands, in order to the support of their Society; so that under the colour and countenance of what was in it self ordinary and usual, and that happened to be at that time, *Oates*, who had heard somewhat of it, and that it was the 24th of *April*, and that such and such were to be there, he upon that Hearsay, as should seem at *St. Omers*, does feign and contrive this pretended Conspiracy.

The next is one *Bleston*; and it is very material too that he swears: For besides what he testifies, that from the time of his coming, which was in *December 77*, he was not absent till the 23th of *June*, when he went away; and for the time in question, he very well remembers his being there, by this Circumstance: says he, I was chosen to be Reader of the Sodality in the month of *March*, but then *Oates* comes and gets the Office out of my hands; but still with me there was that benefit reserv'd, that if he should at any time fail of Reading there upon a Sunday, or a Holy-day, I was then to have read, and to have supplied his place. Says he, I was there from *March* till the time *Oates* went away in *June*; and *Oates* read there that very Sunday before the time in *June* that he went away. And I am sure I heard him read every time; and in case he had not read every time, I must have read in his absence: but I did not read at all, during that time.

Now, Gentlemen, when a man is to succeed or to supply the absence of another in an Office that is peculiar as to the Charge incumbent upon the Officer, and considerable as to the profit of it, that must needs make an impression upon the mind, and give a man a more exact remembrance of the thing; and therefore I recommend it particularly to your observation.

The next is one Mr. *Smith*, and he says he saw *Oates* there all the time : And as to one part of it, when he himself was in the Infirmary, *Oates* went to visit him every two or three days ; nay, and about such a time in *May*, says he, which was about the beginning of *May*, *Oates* being then in the Infirmary not well, the Doctor and he had a pretty Dialogue together, and *Oates* spoke false Latine to the Doctor, for he said, *Si placeat Dominatio vestra*, in the beginning of his Complement ; this he did particularly say was the expression that this excellent Schollar used to the Physician at his first application to him, and all the whole Colledge took notice of that piece of his Learning.

The next is one *Price*, and he tells you, he was there all the time that the others speak of, he remembers him very well, and particularly says, I am sure *Oates* was there the 11th of *May* N. S. which will be the first of *May* O. S. Because, says he, I know he was soundly beaten that day upon a quarrel that he had there ; this particularly he speaks to, besides his remembrance of the other Circumstances in concurrence with the former Witnesses.

Mr. *Doddington* swears the same, and Mr. *Gerrard* also swears the same, with that other particular circumstance that Mr. Solicitor repeated to you, which was of *Oates* being there upon the day of Confirmation the 26th of *May* N. S. the 16th of *May* O. S. and he is sure of it, because he was confirmed along with him, and therefore it is impossible he should forget it : And my Lord *Gerrard*, who was the next, gives this reason upon his remembrance of all the forementioned particulars, that he always took special notice of the man for his Canting Tyne, his Physiognomy, and remarkable Behaviour.

Then there is Mr. *Morgan* who is no Papist, but a Minister of the Church of England ; now Mr. *Oates* was angry with all the rest, because they were Catholics ; but what has he to say to Mr. *Morgan* who is a Protestant ? Why the truth is, there are none of them to be believed, because they swear against him, and really he ought to be permitted to give that reason, or it is like to go very hard with him ; for if in case you believe but a third part of the Testimony that has been given, it is enough to do his work. But what says Mr. *Morgan* ? truly he comes up to the 24th of *April* particularly, and he tells you how he remembers it ; and the first occasion he had to look into it was, they being all surprized at St. Omers at what *Oates* had sworn, and Mr. *Morgan* recollecting with himself, did remember that that very day he was playing at Ball within the Colledge, and happened to toss his Ball over the Wall into the Garden, and not being able to recover it any other way, he spied *Oates* walking and looking into his Book, and therefore he desired him to lend him his Key, and by the help of that, he went in and fetched his Ball ; and this was the very day that *Oates* swore he was here.

Mr. *Arrundel* says the same : the two *Turberviles* say the same ; and one of them is positive to have seen him there either the 24th and 25th, or 23d and 24th of *April* O. S. which is the 3d and 4th, or 4th and 5th of *May* N. S. and if it were either of these days, it cannot be possible he should be here at the Consult.

The next is Mr. *Clavering*, and I cannot but particularly take notice of what he has sworn : he says Mr. *Oates* was there all the time that the rest speak of ; but it seems particularly about the time of the Congregation in *London* : there comes in a Stranger that was poor, and this Gentleman Mr. *Clavering* made a Collection for him ; and it was talked of in the Colledge as the reason why he had not success in his Collection, because the Fathers were gone to the Congregation. Nay, and yet farther says he, I do remember particularly that Mr. *Williams* and Mr. *Marsh* did go over to the Congregation, but *Oates* did not ; for I do remember when *Williams* and *Marsh* came back again, I had some discourse with Mr. *Oates* about the Congregation : He came to me and desired to know of me what account I was able to give of the matter of that Meeting after the Consult was over. Now had Mr. *Oates* been there and been a person of that great Trust that he had sworn himself into, he needed not sure have asked Mr. *Clavering* at St. Omers what the business of the Consult was at *London*, where he himself had been, but the other had not.

There is besides Mr. *Copley*, another Witness, Mr. *Cooke*, that speaks particularly of the 30th of *April*, that he was sure *Oates* was there then, because of the Procession, and because he walked by himself in it ; and *Wright* the last Witness gives a general account, but speaks to no particular time.

And now, Gentlemen, after all this Evidence, *Viva voce*, you must give me leave to hint *Testimonium Rei*, an improbable Oath was that which *Oates* owns he made, if it be considered in all its parts. Can any man believe that fifty persons should meet together in a Tavern in *London*, and these fifty persons should come to a Resolution to kill the King and sub.

subvert the Government, and alter the Religion; and that this Consultation being drawn up in the Tavern (for so he swears it was) they should sever themselves into lesser Clubs and Companies, and take care that none should sign when they were altogether and among themselves, but must have it carried up and down from one mans Chamber to another, and find no body to trust with this Affair, that if discovered, must subject them to present destruction, and ruine their whole party, but onely Mr. *Oates*, who was none of their own Order, nor does appear to be of such Credit amongst them? Can you believe any men should be so void of sense and reason, that of fifty together, and those reputed as subtle as any sort of men whatsoever, there should not be one man of common understanding that should take care for a more rational Management of so great and hazardous an Undertaking? when they were met together, and might have dispatcht it in a quarter of an hour, they should separate themselves into several parts of the Town, and trust a Resolution of that nature in Mr. *Oates* pocket, in whom if they had had more Confidence than they seem to have, yet it was folly and madness to give him that opportunity of destroying all them, and making himself; were there no other Evidence but the very Testimony of the thing, it would go a very great way with me I confess; but I must say withal, you are Judges of this Fact upon a superadded Testimony of Twenty two Witnesses *Viva voce*, I think it leaves the thing without any doubt.

Gentlemen, the Answer given by the Defendant to this Charge is very fallacious; and though he puts such a Countenance upon it, as though his Witnesses were such persons of Credit, that nothing could be objected against them, yet he is certainly very much mistaken in that: He has produced but two positive Witnesses, and those two as positive as they are in their proof, are likewise positive in their Contradictions of one another, and what they have said is left to your Consideration.

The one is a Coachman, the other was Sir *Richard Barker's* House-keeper; they indeed do say Sir *Richard Barker's* Wifes Sister, and his Nephew, and his Daughter, and his Nieces, and a worshipful Knight, and I know not who, that the old Woman tells me are gone into my Countrey, were all there at the same time, and no body comes to testify it, but onely this Coachman and this old Woman: These, Gentlemen, are things fit to be thought of.

But now let us consider how they agree in their Evidence. Says the Woman, I saw him not till the beginning of *May*, but I am sure he was there before once or twice. And how does she know that? because the Coachman told her so; and he came there several times, but he did Dine there but once; and when he came there the first time she saw him, he came in such a disguise, and he had a short Perriwig, and a kind of short white Coat, and a white Hat; but when my Coachman comes to swear, he tells you the first time he saw him, the Woman saw him too, that he had his own Hair, and cut close to his ears, that made him look, as the young fellow told her, like a Quaker. And when I asked the Coachman, Are you sure that *Benjamin* the young Fellow did see him the first time you saw him there? he told me, No; but he was sure the old Woman did look out of the window and see him, which she denies. I then asked him how often he dined there? he tells you several times, and there were such and such, and the old Woman did see him dine there several times; which she denies that she ever saw him dine there above once: And I take notice of one of the Evidence, the Coachman, he gives but an odd sort of reason for his remembrance: In *February*, says he, my Lady died, and my Master was sick at *Putney*, and *Oates* came into the Yard while I was cleaning my Coach; and I am sure it was where the Coat of Arms hung over the door, because he asked me about my Ladies death, and therefore it must be in *May*, when, for ought does appear to the contrary, it might be in any other Month after the Escutcheon was up; and in the other circumstances there is no certainty at all: So that it is plain, these Witnesses swear according as their humour leads them, and not according to any remembrance they have of the thing.

And I rather believe it, because the third Witness, that is *Page* the Apothecary, that used to make up Sir *Richard Barker's* Medicines, gives an Evidence contrary to both those, he cannot remember the year positively or particularly; but I'll tell you how he thwarts and contradicts the other peoples Testimony; for he remembers he came in such a disguise, but he believes no body spoke to him but himself, because he found him walking in the place that was for the common reception of the Patients, and he asked for Dr. *Tongue*, and he not being within, he went away very discontented: and so now these three Witnesses seem to contradict one another; and the last Witness *Walker*, who is the Parson, he says nothing to the matter; for it does plainly appear the time which he speaks of; which

was about a year and a half before he was call'd to testify at the five Jesuits Tryal, must be in the year 77, and not in the year 78, which is the Question here, which must be before he went first to St. Omers.

Gentlemen, the other part of Mr. *Oates's* Defence has been upon this Topick: says he, I have been believed heretofore, the Parliaments have given me credit; and to prove it, he has call'd several Noble Lords and Persons of Quality. The first was my Lord of *Devonshire*, who says he cannot remember any particulars of his Evidence, 'tis so long since; but he remembers the Parliament, upon the Evidence given of the Plot, did make such Votes as we do all know of. And there were a great many people that gave credit to his Testimony, who, God be thanked, are of another opinion now. And my Lord of *Clare* says, he was not in the House of Lords at the beginning of the Discovery, and cannot remember any thing in particular. But my Lord of *Huntingdon* was a little more particular; and Mr. *Oates* began to be angry with him, because he spoke so much: says he, I remember Mr. *Oates* was examin'd in the House of Lords, and was believed there, because they did believe he spoke truth at that time; but now upon consideration of the Contradictions and Falsities of his Evidence, I cannot but say, I do believe him, says he, to be a great Villain, and that he has been guilty of spilling innocent Blood. And this Noble Lord speaks with great Honour and Consideration: And truly I believe, if every man that is here were to speak his mind, my Lord has deliver'd the Opinions of us all, and many thousands more in the Nation.

Mr. *Oates* call'd next my Lord Chief Baron, my Brother *Gregory*, my Lord of *London*, Sir *George Treby*, Mr. *Williams*, and my Brother *Dolben*. But they all tell you, they are able to give no particular Answers to his Questions; and this was the sum of his Evidence.

To this Mr. Attorney General has given a Reply of Evidence that truly is of very great moment. First, here is produced Sir *George Wakeman*, whom *Oates* accused of High-Treason, and he suffered his Tryal and was acquitted; so that as well as the Jury had given credit to him in the former Verdicts, so says Mr. Attorney, I must speak likewise for the credit of that Verdict that did disbelieve him, because though he did swear as roundly and briskly up to the matter as he had done before, yet when he had not the hurry and surprize of his Discovery to support him, his Villany was detected, and the Innocent acquitted. And besides the Record of the acquittal, here is the Person himself, who is now under no dread or danger, having stood his Tryal and being acquitted; and he takes it upon his Oath, in the presence of the Great God the Searcher of Hearts, That whatsoever *Oates* swore against him at his Tryal, was every tittle of it false: And this Acquittal of his, being after great and mature consideration, is an Evidence of another gets quality than the Verdicts of the other Convictions.

Next to him, is my Lord *Castlemain*, a Person of very great Honour; and he gives an account he was arraigned of High-Treason at this Bar, and upon his Tryal *Oates* was produced as a Witness against him, and there he swore he met with my Lord *Castlemain* in *Lincoln-Inn-Fields*, and great familiarity there was between them, so that my Lord could not trust him in a less affair than the Plot; and away he goes with him to *Fenwick's* Chamber, there to talk about a Designe of killing the late King. Mr. *Oates*, of all mankind, must be the great Repository of this Secret; but the Jury then being Persons of great Understanding and Integrity, did not believe *Oates*, but acquitted my Lord *Castlemain*: And he does here take it upon his Oath, backt with all the Imprecations of Evil to himself that a man can use, That there was not one word of truth in *Oates's* Testimony; nor did he ever see *Oates* in his life, till such time as he was taken up upon his Accusation. Now are here two persons of Honour and Quality, that upon their Oaths do particularly give you an account, as in the presence of Almighty God, that *Oates* has twice forsworn himself against them.

Gentlemen, there is notice to be taken of the Journal of the House of Lords; and though it is true for the sake of the Precedent, and to secure the Justice of the Nation, we did keep them strictly to their proof, that it was upon Oath. And as to the business of *Smith*, though we do believe the thing in our private judgments, yet we thought it not fit to be permitted that persons should upon their own Oathes confess themselves to be guilty of Perjury, and afterwards give Evidence against others; for such are not to have the countenance of ever being Witnesses again: yet by the Records of Parliament, and other Evidence, there is enough to make the matter aimed at clear.

For it is clear by his Narrative, that *Oates* did first swear, as far as he could well swear, to bring him into the displeasure of the People: for that was his way to intimidate all he had

had to do with, and thereby force them to comply with his Designs. And there was no more plausible Accusation at that time, than to accuse a man for saying somewhat against the Parliament, or being in a Combination to subvert the Protestant Religion. But you see when he comes to have his own turn serv'd, then this man upon whom he had fix'd such an odious Character, is really no Papist at all, but engag'd in service for his King and Country, and has Mr. Oates's Passport, a thing of great advantage to him at that season. This the Kings Council make use of with great reason, as an Evidence of Tampering: for the man has altered his opinion of one he had before accused, and now brings him as an honest to give Evidence for him. And this, say they, must be intended to be done by Practice and by Threats.

And the rather, Gentlemen, for that you have an account by Witnesses sworn, that there was one Clay a Popish Priest that lay in Prison at the Gatehouse, and while he was there, Oates and Sir William Waller came into the Prison to him, and tampering with him, says Oates, I hear there are some St. Omers Boys that intend to testify that I was at St. Omers, when I say I was at London; but you must swear, that you din'd with me at Mr. Howard's in May 1678: or if you will not, you know I know you to be a Priest, and I'll hang you. Says Clay, Where is my Silver and Gold that was taken away from me? And we all know Sir William Waller was wonderful good at the fingering of Gold; he us'd to take away broad Pieces as Popish Reliques, because of the Crosses upon them. Says Clay, Give me my Gold again, I will swear for you; I have been a Rogue before, and I may be a Rogue again. And accordingly a Contract is made for him to swear directly that Oates and he were together at Mr. Howard's house in May 78. This very Fellow that tells you now the story, told it the next morning to another man, who has likewise sworn the same. Then is Clay conveyed by Oates to the Old-Baily, and there swears, being thus threatned and suborn'd, That in May 1678 he and Mr. Oates dined together at Mr. Howard's house, and you have Mr. Howard produc'd, who does swear that Clay did swear so; but indeed he was not there with Mr. Oates at dinner till July after.

This, Gentlemen, is direct Corruption and Subornation; and if a man will be a corrupt Knave, and endeavour to suborn Witnesses to swear that which is false, he is the more likely to swear false himself. Besides, that you are to take notice, here is his own Narrative produced, where you have it sworn by himself, That he went back to St. Omers about the beginning of May, and was there all the month of May, and in June till the latter end of it. Then all this while either Mr. Oates or, his Witnesses, are perjurd in the Case: He says, he stay'd but three or four days in England after the Consult was over, and then went streight back again to St. Omers. Which must be the first week in May; but if you believe his two Witnesses, he din'd with them several times after that: and so it is apparent, some of them are guilty of gross and foul Perjury.

Now, Gentlemen, I cannot but resort back to the Objection that I made at first. 'Tis strange to me, that a man that came upon such a designe, should go publicly about the streets at noon-day, though in a disguise, yet he was known. But if you take the persons time to be in the year 1677, then it is easily reconciled what they did say of their seeing him in such a disguise; and so all their Testimony may stand together, and perhaps they may mistake in a point of time, though not in the substance of their Evidence; and I would out of charity conclude it to be so.

But I will say, if they are to be taken strictly to the year 1678, it is monstrous to imagine, that we should have no body brought to let us know where he lodged, where he eat, with whom he convers'd for all that time.

Gentlemen, I have detain'd you the longer in this matter, because I take it to be of so great weight, wherein the Justice and Honour of the Nation are so much engaged, and it was therefore fit this Cause should be tryed in the most solemn and publick manner, in order to vindicate the Nation from the Reproach and Calumny of Injustice and Oppression: And sure I am, if you think these Witnesses swear true, as I cannot see any colour of objection, there does not remain the least doubt but that Oates is the blackest, most perjurd Villain that ever appeared upon the face of the Earth.

C. Crown. Tiplaff, you must take care of the Jury.

L. C. J. Gentlemen, if any of you have a mind to drink at the Bar, before you go, you shall have some got for you.

Jury. No, my Lord, we do not care for drinking.

L. C. J. Then we will stay for you.

Then the Jury withdrew to consider of their Verdict, and after about a quarter of an hours stay, they return'd and delivered in their Verdict: That the Defendant was guilty of the Perjury whereof he was Indicted. Which being Recorded, the Lord Chief Justice spoke to the Jury, to this effect.

L. C. J. Gentlemen, that we are not, God be thanked, in those times of Disorder and Confusion that we have been heretofore in, to have Humming or Hissings to declare the Auditors Approbation or Dislike of Juries Verdicts. But because there has been this day mention made of the Opinions of Judges about Verdicts, I shall take the liberty to declare my mind to you now, That for my part, I am satisfied in my Conscience, you have given a good and a just Verdict; and so I believe is every other Judge upon the Bench.

To which the rest of the Judges assented; and then the Court arose,
